The Case of "Derech Hanitzotz"

SILENCING OF AN OPPOSITION

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Printed by the Green Party of West Germany, PO Box 14 22, 5300 Bonn, FRG, Tel: 49-228-69 20 21,
Fax: 49-228-69 41 12
Lay-outed by Raimund Dahm and Gerhard Lippe

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INTRODUCTION TO THE SECOND EDITION OF "SILENCING OF AN OPPOSITION"

PRODUCED BY COURTESY OF OUR FRIENDS IN THE FEDERAL REPUBLIC OF GERMANY

The "Derech HaNitzotz" case, Israel's security affair of 1988, has reached its end. Today, many wonder if this was indeed a security affair or a typical case of political harassment. After the four editors were sentenced to prison terms between 9 and 30 months, many find it difficult to reach the correct answers. For part of the Israeli public, any kind of contact or dialogue with Palestinians who belong to or identify with the PLO, is a crime worthy of life imprisonment. For a growing section of Israeli society, contact with the PLO is a necessary step in order to put an end to the bloodbath which is taking place in our region and which has claimed many victims on both sides. There is no doubt that in light of the Intifada and the massive support the announcement of the independent Palestinian state received around the world, Israel is going through a real revolution in regard to its basic conceptions of the Palestinian question and its solution. For this reason, Israeli attitude towards the Nitzotz case went through continual changes during the nine months between our arrest and the end of the trial. This change could be felt almost daily. Those who thought to build their careers and interests on the back of our case, mainly the new head of the Shin Bet and the right-wing circles behind him, were forced to climb down the high tree they had mounted and be satisfied with a sentence of 30 months, instead of 30 years. The difference, between the "revelations" brought by the head of the Shin Bet to the Israeli "Editors' Committee", at the beginning of the case, and the final result of the trial, surprised many. The trial's result was also another blow to the Shin Bet's reliability and that of the Israeli Supreme Court, whose prestige was deeply damaged by the series of Draconian rulings which came to justify Defense Minister Rabin's policy of barbaric repression in the Occupied Territories. Nahoum Barnea, the former editor of "Koteret Rashit" weekly and today a columnist for "Yediot Aharonot" daily, wrote about the verdict: "Two people must see the verdict as a slap in the face. Supreme Court Judge, Prof. Aharon Barak, overruled a ruling by the District Court to release the defendants on bail, and thus left their children without parents for a lengthy period. "They cross the lines of national existence", wrote Prof. Barak, among other things. "This behavior deviates from anything accepted and tolerated in a democratic society." The ringing words of Judge Barak did not sit well with the triviality of the case, as heard in court." The second person Barnea wrote about is the head of the Shin Bet himself: "This man, appointed to his post after the "Shin Bet Affair" [Bus 300, Nafso] exhausted itself, grandly brought this case as a treasure to the head of public agenda. It seemed that here was a leftist version of the 'Jewish Underground', if not more. The politicians loved this story, and even the prosecution, whose relations with the Shin Bet were disrupted during the Bus 300 affair, jumped at it enthusiastically. And mainly, it greatly enhanced the public image of this important arm of government, after three lean years. If the head of the Shin Bet knew that he was inflating a half-empty balloon, no problem. That's what people who grew up in darkness know how to do. But if that man seriously thought for one minute that here was an espionage and sabotage net, the problem is all of ours'." Two factors let the air out of the inflated balloon. The first, the change in Israeli public opinion in regard to the Palestinian question, as result of the Intifada and the second, our determination not to confess to the charges brought up against us and to conduct a stubborn legal battle against the Shin Bet. It should be mentioned that the latter was not particular about the methods it employed to obtain our conviction and thus gain a boost to its damaged prestige. However, the illegal methods became the major focus in our trial. Our legal team, Felicia Langer, Meir Morgenstern and Hussein Abu Hussein, made every effort to prove to the court that there was nothing behind the severe charges, and that the confessions obtained from some of the defendants were extracted against their will, by force and illegal methods. The Israeli public could, for the first time, follow the Shin Bet methods of interrogation this time not against

Palestinian Arabs, but against Jewish Israeli citizens themselves. The court was impressed by the fighting spirit with which the defendants set out to prove their innocence. At the very first court session our comrade Hadas Lahav was called to testify for the prosecution, on the basis of a confession extracted from her by the Shin Bet, through illegal methods and under pressure. Hadas Lahav refused to testify against her comrades and the court ordered her detained for 7 days, to force her to change her mind and testify. A week later, when she was brought from the Russian Compound Detention Center to the witness stand, she continued to refuse and did not utter a word. Hadas Lahav was released, but her confessions were admitted in court by a precedential and extraordinary ruling. However,

this ruling by the court was a two-edged sword. From the confession, the court could gain the impression that even in a confession bitterly fought over by the prosecution, it is faced not with a security affair, based on treason and contact with a foreign agent, but a political case, in the center of which is the publication of a fully legal paper by a left political group. As the court sessions continued, the court's unease about the case grew deeper. This was fully expressed by the ruling of Judge Zvi Tal, head of the judicial team, who, in a well founded ruling, decided to release us on bail as result of a renewed request on this issue. Judge Tal's ruling affirmed Judge Ben-Zimra's appraisal, who had ruled on this issue before, and was a severe blow to the prosecution. If not for the ruling of Judge Shlomo Levine, who accepted the prosecution's appeal and left us in detention, our trial would have ended in a very different manner. However, the Supreme Court decided to go all the way with the Shin Bet, overlooking the facts.

Despite the fact that the four of us remained in detention, Judge Tal expressed the court's opinion and thus also set the trial's limits. He stated in his ruling that this is a case of nominal membership in a terrorist organization. "The applicants' deeds,", he stated, "besides actually joining a terrorist organization, were the publishing of a paper, which underwent censorship in Israel, financed by that hostile organization and under its inspiration."

During the nine months of our detention, the term "hostile organization" went through many changes. The definition of the PLO as a terrorist organization suits the Zionist conception which denies the existence of the Palestinian people and its right of self-determination. This law aims to preserve the status quo and has a clear political character. This approach received full backing from the US administration which also, out of narrow interests, clung to the idea that the PLO was a terrorist organization and that any contact with it was prohibited. With the change in the status quo, by the Intifada, this attitude toward the PLO also went through a drastic change.

Isolated from the entire world, which refused to accept the American-Israeli dictates, in light of the 19th PNC, and as a result of PLO Chairman Arafat's speech before the special UN General Assembly meeting in Geneva, the US administration was forced to change its attitude toward the PLO and to commence official contacts with the organization. And so, the normative structure, built upon Mandatory regulations, amendments to orders and idiosyncratic and unusual laws, on the basis of which we stood on trial, began to crumble. While Minister Ezer Weizman calls for negotiations with the PLO, and Rabin orders the Coordinator of Actions in the Occupied Territories to meet with the person he terms the PLO's no. 1 figure in the Territories, what is the benefit of our trial? After all, all we did was defined as publishing a paper. What "national lines" does Supreme Court Judge Barak refer to? The lines set down by Shamir, or those set down by Rabin and Weizman? Or perhaps he refers to the lines set by those Members of Knesset and Israeli public figures who decided to participate in congresses along with PLO representatives?

Israeli society is undergoing a revolution with regard to the PLO, which can be seen by the public opinion poll showing that 54% of the entire Israeli population supports negotiations with the PLO. The "Peace Now" movement which, until recently, opposed any contact with the PLO, organized a mass demonstration in Tel Aviv under the slogan "Talk Peace with the PLO", and its members participate in conferences including representatives of the organization.

If all we have said is correct, why, then, have we been convicted and sentenced to prison terms of up to two-and-a-half years? The answer to this lies in the difference between our political position towards the PLO and our view of the solution to the conflict, and the other bodies in Israeli society. Excluding those who reject all solutions, those who support peace with the Palestinians view the PLO as "the enemy with whom we must make peace". The Nitzotz Organization, in contrast, stands at the head of the democratic forces which support the struggle of the Palestinian people for self-determination and see the PLO as a partner in building peace for the benefit of both peoples. It is for this that we have paid the price. Israeli society is not yet ready to accept this idea. Although it no longer regards everyone who supports the PLO as a traitor, it is not yet ready, at this stage, to accept the idea that our future is mutual and that the establishment of a Palestinian state is a prelude towards the change of the regime in a democratic, egalitarian and non-discriminatory trend.

Moreover, the fascist foundations in Israeli society are still strong and are present in the major power centers in the State. Vis a vis the positive trends run negative trends, which are working to alleviate the international pressure on Israel and drown the uprising in blood. These elements reached absurdity when they prevented the broadcasting in Israel of Arafat's speech at the 19th PNC in Algiers. They want to prevent the Israeli public from knowing the truth about what is happening inside the PLO and its peace programs. This desperate attempt reached its height with the cutting off of electricity to all the West Bank and Gaza Strip in order to prevent the Palestinian public from following the developments in Algiers. This caused a most serious protest among journalists who, for the first time, demonstrated in the street against the minister of defense and his henchmen who so severely curtailed the freedom of media reporting.

These forces are the same forces of darkness which attempted, by framing us with most severe charges, to silence the democratic voice and reliable reporting. The path open before us to alleviate the severe charges was through plea bargaining, by which we pleaded guilty to part of the charges in exchange for short sentences. We attempted to prove to the public that our deeds were not connected in any way to terrorism, espionage and treason, and that we were framed in order to achieve political aims and not to destroy a security hazard which endangered Israeli society's welfare. From the moment the court agreed to the deal, the public's reaction was clear-cut: "hot air again". This issue went so far that a columnist on "Hadashot" daily, known for his extremist positions, complained that he had not heard one critical word from his journalist colleagues against us.

The truth is that we are not the address for criticism. Israeli society cannot be proud of the fact that people like us are placed behind bars. If a society places people, who honestly struggle for for peace and democracy and against the horrors which take place in the Occupied Territories, behind bars, it's a sign that this society is sick and in need of fundamental change. Moreover, we are quite aware of the

fact that thousands of people like us are in Israeli prisons, some without trial at all, others stand to be deported, and most, as result of trials which are a mockery of the principles of justice and equality before law. On the other hand, we found very many voices, in Israel and abroad, who supported us all along the way. We felt that we were walking at the head of a great camp, not as few with justice on their side. In fact, as time passes, our camp grows and our positions receive more and more understanding within the Israeli public. In regard to the Palestinian population in Israel, it was encouraged by our determination and steadfastness, and there is no doubt that more and more young people who are seeking the way towards freedom, equality and a non-discriminatory and non-racist society will find their way to our ranks.

Those forces which attempted to destroy us were disappointed. We came out of this trial stronger than at the time of our arrest. Despite all difficulties, we passed this difficult test due to our unity and our belief in our way, in the power of the Palestinian people to achieve its rights and in the strength of the Israeli peace camp to force its way upon the entire Israeli society.

We are aware of the fact that there are many difficult trials before us and that the harassment against us is not over yet. Those who want to prevent peace and eternalize the occupation, racism and discrimination, will continue their war against us. But their work is in vain. The processes in our region and society are irreversable. The writing on the wall has been engraved since the establishment of the PLO, 20 years ago. Today, the horizon is even closer. During the nine months since our arrest, the Palestinian people has won great achievements, the most important of which is the establishment of its independent state. In the 20 months until the release of the last of our prisoners, will a Palestinian government hold office in Arab Jerusalem and the Palestinian flag fly over Al Aqsa mosque? Will Israeli society give rise to a brave leadership, which will replace the stagnant leadership preventing any possibility of peace? Undoubtedly, the coming period is dramatic and interesting, and for us, both inside prison and out, there remains the struggle for bringing the peaceful solution closer to both peoples. If those who put us in prison forebode destruction for us and for the world, both peoples, and with them all peoples of the world, prove that their will is to live. Therefore, there is no escape from the victory of justice.

Yakov Ben Efrat,
Jalameh Prison.
February, 1989.

INTRODUCTION

BY YAKOV BEN EFRAT

If the authorities, by arresting the editors and bringing them to trial, thought to silence the voice of "Derech HaNitzotz", they have achieved exactly the opposite result. Since Ribhi Al Arouri, editor of "Tariq A-Sharara" (Derech HaNitzotz in Arabic) was placed under administrative detention, and the subsequent arrests of Roni Ben Efrat, Michal Schwartz, Assaf Adiv, Hadas Lahav and the writer of these lines, the issue has not left the headlines of the press. Not a week passes without a report of some kind or another about "Derech HaNitzotz". The issue has become a controversial subject in the Israeli public, and a focus of attention for supporters and opposers alike.

None of these journalists and public figures, who follow in dismay the decline of democratic freedoms in Israel and the persecution of the peace forces, can ignore the issue of "Derech HaNitzotz". On the other hand, all those who are alarmed by the outbreak of the Intifada and by the rising voices of Israelis calling definitively for withdrawal from the Occupied Territories and recognition of the PLO, wave "Derech HaNitzotz" as the banner of the "treachery" of the left.

The division was also expressed in the Israeli courts. The District Court Judge in Jerusalem, Eliyahu Ben Zimra, ruled to release three of the four detained editors on bail, on the grounds that "the defendants have done nothing forbidden". However, Supreme Court Judge Aharon Barak decided to overrule the ruling of the lower court, stating that the defendants "crossed the lines of national existence".

What do the authorities claim? They accuse the four editors of "Derech HaNitzotz" of establishing contact with a foreign agent and of membership in a terrorist organization, in this case, the Democratic Front for the Liberation of Palestine, headed by Naif Hawatmeh. In other words, the authorities contend that the members of "Derech HaNitzotz" were involved in espionage and underground activity on behalf of a terrorist organization. Contrary to these absurd contentions, for which the four may be sent to prison for many years, a very different reality exists.

The "Nitzotz" organization operates, most openly, in the framework of the Democratic Front for Peace and Equality (HADASH) in cooperation with the Communist Party of Israel. The goal of this group is to bring an end to the Israeli occupation of the territories and recognition of the PLO as sole legitimate representative of the Palestinian people, as a step towards establishing a stable peace by means of an international convention for peace in the Middle East. At the same time, the organization works for a fundamental, democratic change of regime in Israel, so that Jews and Arabs may enjoy equal rights, through the abrogation of all forms of discrimination and racism currently enforced by the most wide-ranging legislation.

Even more importantly, the group's major activity was the publishing of a newspaper in Hebrew and Arabic, which concentrated on the situation in the Occupied Territories, the problems of the Arab population inside Israel, and issues concerning the progressive circles in Israel.

It would be a sorry mistake to try and limit the issue of "Derech HaNitzotz" exclusively to a matter of freedom of the press. It is chronologically correct that the story began

with the closing of the paper by administrative order in February of this year. However, the arrest of its editors and the severe charges brought against them constitute an escalation and came in the framework of an attempt to obliterate all political opposition to official policy. It is impossible to divorce the issue of "Derech HaNitzotz" from a series of unusual steps taken for the first time in 20 years against Israeli citizens, Jews or Arabs, who work for a change in the official policy towards the residents of the Occupied Territories, against the background of the Intifada.

In contrast to the totalitarian regimes of the Middle East and the world, in Israel there exists the freedom to express opinions and to organize freely. Everyone is free to express their opinion and organize, even if their opinions are the polar opposite of the existing policy and regime. However, this is true only as long as these opinions are irrelevant. Let us say, as long as there is a distance between what I say and what reality is. From the moment my opinions begin to approximate the progress of events, that is, from the moment that they become relevant for the Israeli public, Jews and Arabs, at that exact moment the authorities stand ready to enact an entire array of laws, which no totalitarian regime would be ashamed of. A tractate of Mandatory regulations, orders, amendments to orders, effectively block the flourishing of any serious opposition to the existing regime. This same tractate of regulations and orders was enacted against the four "Derech HaNitzotz" detainees, and on its basis we stand to be tried.

In order to illustrate the above, we indicate that for ten years, HaNitzotz existed without harassment, fully en-joying "Israeli democracy". It is a great paradox that while, in its early years, the group was extremist and unrealistic, it did not merit any attention at all from the authorities, and this was because a greater public did not grant it any merit. However, when the opinions of the writers matured and came to expression in a well-founded and realistic political program, the public began to pay attention to our work. Interest in the Arab sector assumed a truly massive character, and then the red lights went on in the office of "the man" who is concerned with the welfare of the existing regime. And what lent our opinions relevance and urgency was the outbreak of the Intifada in December, 1988.

In the years between the Lebanon war and the outbreak of the uprising in the Occupied Territories, the issues which occupied us were "non-issues". The call for the establishment of an independent Palestinian state under PLO leadership seemed totally divorced from reality in light of the deep divisions which split the PLO and the tripartite negotiations among Peres, Hussein and Schultz. During this period, we remained virtually isolated in our efforts to arouse public opinion against Rabin's Iron Fist policy in the Occupied Territories as it led to deportations, the closure of newspapers, administrative detentions, house demolitions and various collective punishments.

This state of affairs did not deter us from establishing a Jewish-Arab board which would undertake the publishing of two papers, one in Arabic and one in Hebrew. Thus we joined together, Ribhi Al Arouri from Ramallah, Ribhi Suwaiqi from East Jerusalem, Maysara Sayyed from Acco, and the detainees currently awaiting trial, in a unique attempt to put out a paper deeply involved in what was happening in the Occupied Territories, within the Arab population inside Israel, and inside Israeli society itself. The intimate attachment of each of us to his or her particular sphere of interest and involvement in it, created an unusual flow of information which became characteristic of our Hebrew and Arabic news. The way in which facts were presented and their sharp analysis, made our Arabic newspaper a success story. In less than a year, it won its position amidst the Palestinian-Arab public in Israel, and was distributed in thousands of copies in most of the Arab cities and villages. The Hebrew paper slowly began to penetrate Israel media circles, and even reached figures and institutions that wanted to follow closely what was happening in the Occupied Territories. There was no one who dealt so methodically with this subject as our paper. In this pamphlet, among other things, appear several articles written before the Intifada, in order to demonstrate the labor which went into the subject. The reader will have no difficulty understanding what led to the popular uprising in the Occupied Territories. "Derech HaNitzotz" not only translated the facts pertaining to the harsh oppression of the civilian population, but also the mood preceding the Intifada. We followed very closely the processes which led to its outbreak. On December 9th, 1987, when the uprising broke out in Jibaliya refugee camp, "Derech HaNitzotz" was in the center of things. Our sources of information enabled us to provide an updated and reliable flow of information on what was happening, while the government and army were attempting to lessen the significance of events by contradicting and distorting the facts. This was the main reason for the authorities' need to remove "Derech HaNitzotz" from its central position and silence it. Our case was not unique. It took place in the framework of the silencing of additional sources of information, whether Palestinian newspapers in East Jerusalem, the detention of dozens of Palestinian journalists, even the closing of the territories to coverage by foreign and local press. The press became the enemy of the regime, and freedom of the press something to suppress legitimately by unsheathing administrative orders held in readiness.

By closing "Derech HaNitzotz", the authorities created something new, seen in the broad public outcry the incident merited in this country and abroad, whose expressions, as presented in this pamphlet, derive from genuine concern of the democratic public, here and around the world for the most serious decline of freedom of the press. However, the phenomenon of HaNitzotz, expressed in Jewish-Arab cooperation to promote the Intifada by creating a supportive, encouraging segment of public opinion inside Israel, was tied to a much larger phenomenon. I refer to the militant protest of the Arab population in Israel, which came in response to the Intifada. In the wake of "Peace Day", a day of general strike by the Arab population, in December, 1987, Minister Ronnie Milo came out with a declaration that he would enact an "Iron Fist" policy (against Arabs in Israel) similar to what was being done in the Territories. And indeed, ever since, he has managed to enact administrative detention orders against Arab citizens of Israel, the Arabic daily "Al Ittihad" was closed for a week, and the threat to close institutions and attack their sources of funding has been realized. Our detention undoubtedly comes to deter those very circles in the Arab population which call for the adoption of a program of militant action to exert constant pressure on the government in order to compel its retreat from the strategy of force.

As for the Intifada, it is also creating a new phenomenon within Israeli society itself. For the first time in 21 years of occupation, the peace camp increasingly defines its stance with clarity, while it disengages, bit by bit, from the traditional perspectives of the Labor Party. The lack of response from Shamir and Peres to the minimal demands of the Unified Command of the Uprising creates an escalation of the situation. The Intifada is becoming institutionalized, and striking root in the proletarian class, as well as at large. It is currently clear to all that, without the PLO, the exclusive factor recognized in the Occupied Territories, there is no chance of advancing any agreement between the Palestinians and Israel. King Hussein's declarations regarding the Hashemite monarchy's legal and administrative disengagement from the West Bank constitute a recognition on his part that there is no substitute for the PLO. This can be seen as a death-blow to the "Jordanian Option". Until now, the "Jordanian Option" has been the Alignment's excuse for avoiding any negotiations with the PLO, and thus for preserving the status quo in the Occupied Territories. Furthermore, the Labor Party was rightly perceived as a full partner in the atrocities which burst out in the Occupied Territories, and Defense Minister Itzhak Rabin, number 2 in the party, was directly responsible for the repressive actions.

Israeli society is undergoing a process of acute polarization. Against the voices of the fascistic right, which become increasingly vocal in their demands for the transfer of the Palestinians to Jordan, the voices of the liberals and the left grow stronger in their call for the recognition of the Palestinian people's right to self-determination, and of the PLO as its sole representative. The positive position of the "Citizen's Rights Movement" (RATZ) on this issue, undoubtedly creates a new atmosphere in political life in Israel, and opens the door for the flourishing of extra-parliamentary movements of protest - to the dismay of the authorities.

The government's reaction has been to "put on the brakes". By state initiative, the government now indiscriminately suppresses the population in the Occupied Territories and makes use of Draconian laws against the opposition at home. Thus, the "Derech HaNitzotz" affair is mentioned in the same breath with the issue of "Yesh Gvul", whose activists are being investigated by the Shin Bet for calling on reserve soldiers to refuse to serve in the Occupied Territories and thus take part in the suppression of the Intifada, or the affair of the defendants in the Romania meeting case. In the latter case, I refer to the four leftist activists who were tried and sentenced to six months' imprisonment for their participation in an Israeli-Palestinian meeting in Bucharest in late 1986. The fact of the connection between the "Derech HaNitzotz" trial and the persecution of the left was expressed in the decision of the "21st Year" to put out a publication called "Nitzotz Guardian" in protest of the paper's closure and the arrest of its editors. This group unites a wide spectrum of academics and free professionals of liberal tendencies, and is thought to be one of the most active groups opposing the occupation.

Under these circumstances, the Israeli government's efforts to demonize the PLO ring increasingly hollow in face of reality. The excuse that "there is no one to talk to" sounds hollower than ever, and shows those who flaunt it as occupiers blind to reality. The trial of the "Derech HaNitzotz" detainees is a desperate attempt to reclaim land which has eroded under the feet of the rejectors of peace. They are trying to create an atmosphere of terror, by accusing us of treason, in order to deter progressive forces from continuing their search for a dialogue with the Palestinian people and for cooperation with them in building a mutual future.
Many ask themselves if the authorities will succeed in their plot. The "Derech HaNitzotz" detainees have proven we will not be deterred. Our recent hunger strike, in protest of our solitary confinement, shows that we do not relinquish our struggle and that we cling to the principles which fostered our action. As for the question of whether these ideas can be realized, we answer that it does not merely depend on us. It depends first and foremost on the readiness of the Palestinian people to continue its struggle undeterred until it compels recognition of its national rights. And if we judge according to what is currently occurring, we can only say that the chances that our ideas will indeed be realized are definitely good. In so saying, we take into account that the Israeli government's policies are losing credibility in the eyes of the world, and so in the eyes of increasingly large sections of the Israeli public, and that there is no other option for the Middle East than a solution to the Palestinian question, one which will answer the minimal demands of this suffering people which seeks its place among the other peoples of the world, in peace and coexistence with all other peoples of the region, including the Israelipeople.

Yakov Ben Efrat
Jalameh Prison
1.8.88

CHILDREN BEHIND BARS

by Michal Schwartz
Derech HaNitzotz 27.9.87

Standing beside the plaintiff's stand in the Nablus military court on September 15, Roshdi Fadl Ayoub, born in 1974, looked smaller than his 13 years. He looked exactly like a little boy, and that is what he was. He represented himself very well, said attorney Ghassan Raisha of Nablus, who saw him standing there. It is hard to believe, but this was his second detention.

The first time Roshdi Ayoub, from Ain Beit Alma refugee camp, was arrested was on Jan.2, 1987, for the offense of throwing stones. He was sentenced to a month's imprisonment plus a fine, but because his family could not raise the money for the fine, he spent another month and a half in jail, altogether three and a half months, and was released on March 13, 1987.

On August 15, he was arrested a second time for the offense of having thrown stones in January, when he had been in prison and was clearly incapable of committing the crime. Despite this, he was sentenced by the judge to 18 days in Fara'a, after which the judge extended his detention by two additional weeks. Only on Sept. 9 was the boy released, after defending himself as a seasoned expert.

LOSING THEIR FEAR

Roshdi Ayoub is not an exceptional phenomenon in the Occupied Territories. On the contrary. It is possible to say that the percentage of children among those detained is rising steadily. According to the estimate of lawyers in the Nablus area, more than 60 percent of the detainees are under the age of 18, while ten years ago they did not number more than 45 percent.

"At one time, the prisons contained mature men who were ideologically educated, leaders who merited visits in prison from Knesset members. Today the situation is different. There is spontaneous, local organization of the youth. One can certainly say that a new generation has blossomed, which was born under the occupation, and does not know what fear is. Opposition to the occupation seems the most natural thing to them," says attorney Ghassan Raisha. "It would not be an exaggeration to say that today, in many cases, it is the youth which constitutes the active leadership of the struggle against the occupation. More than once it has happened that a 14 year old boy caused the closure of all of Nablus."

Attorney Adnan Abu Leila handles hundreds of cases of children from Balata. "80 percent of the children I take care of are from Balata," he says. "Any random visit to a family from Balata will reveal a child who was or is imprisoned in Fara'a or some other prison." Dozens of cases of making Molotov cocktails, improvised rifles (an iron pipe, an iron fragment and a strong rubber band), training in the use of these weapons, and local organization, point to youth who organize spontaneously against the occupation, even if their ideological education is beneath that of their predecessors.

It is a matter of hundreds of children and youths who have been in and out of the prisons in the Occupied Territories for years. And yet, very little is known of the phenomenon: in which prisons they are held, according to which law are they treated, who is responsible for their imprisonment and conditions, what is the exact extent of the phenomenon, and how they react in prison. During the course of my investigation, it became clear that there is no documentation about the children in jail. And as for the military spokesman responsible for the Fara'a camp, and the spokesman from the prison services responsible for the rest of the prisons in the Territories, it was difficult for us to get any reaction or information from them at all.

"Just once," relates attorney Abu Leila, "There was a pleasant judge, a reservist. When I said to him 'Aren't you embarassed to put such a small boy into prison for throwing stones?' he released him with a fine of one agorah. This story did not repeat itself."

Fortunately for the minors, the older Palestinian prisoners try to protect them from harm, see that they receive enough food, that they do not sleep on the floor if possible, but on a bed, and take care of them.

MILITARY ORDER 132

It is a rule, that someone convicted for relatively light offenses, such as throwing stones, burning tires, demonstrating and writing slogans, is transferred to Fara'a, over which the army is responsible. In the case of Molotov cocktails, making an improvised rifle, organization and similar offenses, which are considered security offenses, the convicted enters a regular military prison, and the prison services are responsible for him.

From the official authorities, it was impossible to get data on the extent to which youth are imprisoned. The official publication of the prison services (Annual Report 1985/6) did not make any statistical mention of a separation between youths and older prisoners from the Territories. Such a separation did exist. In a prior report, from 1976/7, there was a general mention to the effect that 14 percent of the political prisoners were under the age of 20. If we take into account that the number of political prisoners hovers

around 3500, we arrive at an estimated number of 490 under the age of 20. (This was before Fara'a detention camp existed; the camp was erected in May 1982.)

According to lawyers' estimates, there are currently about 70 youths in Hebron prison, and more than 40 in Nablus. As for Fara'a, attorney Raisha claims that in 1986, approximately 1800 youths passed through its gates, and by September 1987 another 1600. Some were released after 18 days without trial, and some were tried, so that it was impossible to obtain data from the spokesmen.
This is without taking into account the situation in Gaza, where the detention camp "Ansar 2", under the responsibility of the military is situated; many of its inmates are youths, as in Gaza prison itself.

Military Order 132 deals with the offenses of minors in the Occupied Territories. The order defines the bounds of criminal responsibility thus:
1. Until the age of 12, one is a minor and not liable for criminal responsibility, even if one has murdered someone.
2. Until the age of 14, one is considered to be of 'tender age', and will not receive more than six months of active imprisonment, excluding exceptional cases.
3. From the age of 14 and up, one can receive up to five years in a court composed of one judge, and more than that in a court of three judges.

But the exceptional is not so rare. Military order 378, paragraph 53, amended the law so that it is permissible to give someone up to 20 years for the offense of throwing stones, so that the majority of the charge sheets are not limited to disturbing the peace in a general fashion, but go to the trouble of indicating that they are acting in accordance with paragraph 53. In addition, paragraph 62 indicates, it is permissible to give someone more than a half-year sentence, in accordance with the "Emergency Regulations", even a 14-year-old. We must add the fact that many children spend additional months in prison, due to their families' inability to pay the heavy fines, and the fact that more than one child has spent nine months and more in prison, although aged no more than 14.

NO CONSIDERATION FOR AGE

It should be mentioned that, contrary to what is accepted in Israel, West Bank children do not receive any consideration for their age. They do not have special detention centers (except the infamous Fara'a), special youth-interrogators, special judges, probation officers, or social workers. In Hebron jail, a special wing was opened for "Ashbal" (youth) in detention awaiting trial, but the period of imprisonment after trial is served as a regular prisoner.

Thus, the youths suffer, as all others, the conditions of severe crowding typical to prisons in the Occupied Territories. While the average living space in Sharon (Tel Mond) prison for youth is 6.2 square metres for each, the average space in the Territories, including youth, is 2.2 square metres each. "We try to have as much consideration for youth as possible", says prison service spokesman Rafi Malka, "But we must take into account that the situation of all prisons in the Territories is very severe . . ."

Even worse. The military courts got smart, and declared the decisive age to be that on the day of the trial, not at the time of the crime for which one is tried. "This practice contradicts the essence of criminal law", says Adv. Abed Al Assali, "As it is like placing an obstacle before the minor. It is aimed solely at cancelling the factor of young age of the offender as a lightening factor."

The courts in Nablus have a chronic lack of judges. Children are held for months without trial. Many arrested in January, 1987 have not been tried yet, and this allows giving them heavier sentences than would have been given, iftheir age at the time of the crime was considered. Usually, there is no consideration for age, as the following examples will show: Suleiman Salah Ayad Al Hatib, born in 1972, from the village Hazma, was 14 years and one month old when, together with a friend, he stabbed two tourists in Wadi Kelt. Despite the fact that the tourists were superficially wounded and immediately released from hospital, and despite the young age of the defendant, he was sentenced to 15 years imprisonment!

Less dramatic, but more frequent examples are numerous. Mohammad Sami Sharaiya and Mohammad Mahmud Ja'arim, both born in 1973, were among a group of 23 youths from Ballata refugee camp who were tried for production of makeshift guns, training and firing at an alleged collaborator. The head of their group was 13-year-old Mahmoud Zaidan. He was first arrested in January, 1987, but both Nablus and Jnaid prisons refused to admit him, as he was underage. On May 31, he was arrested again, tried on 19.8, and sentenced to six months' imprisonment. Most members of his group, who were 15 years of age, were sentenced to 6-7 years in jail.

Amjad Ismail Masri, born in 1972, was sentenced to four years imprisonment for "participating in throwing an inflammable object" when he was 15 years old. He himself did not throw the object, and no one was hurt as the result of the incident. Another person received the same sentence for the same deed. The difference is thatthe second person was 20 years old.

MAJDI IS NOT AFRAID

Majdi from Nablus, aged 15 today, was born on 21.6.72. His smooth face is beardless, and his glance glowing and innocent. He was first arrested on 28.9.86, when 14 years and three months old. "I was not so scared because all four of my older brothers had already been detained before me." One of Majdi's brothers was arrested in 1977, when Majdi was five. He was sentenced to life and released in the prisoner exchange. Majdi used to visit him in prison. Later, his brother Kamal was detained at age 14, for six months. His father was also detained for various periods, and their home sealed. "When you live under occupation, it is natural to be arrested", he explains from experience.

When he was arrested, he was taken to Fara'a together with two other pupils from his school. He spent four days of relatively light interrogations. Solitary cell, head covered for four days and nights, continual standing for days, and sleep in a sitting-crouching position on the floor, going to the toilet once a day, beatings on all parts of the body, and especially pressure to the neck and throat causing a choking sensation, throat pains and nausea. He was also beaten all over his body with a stick, his hands pressed while pens were inserted between his fingers.

"Of course I screamed", he admits. "Everyone screams, but I didn't confess to the charges - throwing stones at a bus." Four days later, the interrogations ended and he was taken

to the regular cell. His lawyer suggested that he plead guilty in order to plea-bargain, but he refused. Since others testified that he participated, his lawyer confessed in his name. Finally, on 6.11.86, he was sentenced: six months' imprisonment and NIS 1500 fine. The judge decided to punish him severely, to deter him. Since he could not raise enough money for the fine, he spent six extra months in prison, all together 9 months, most of them in Hebron jail, "the dirtiest and most stinking prison there is", he says.

On 24.3.87, he and his friends went on hunger strike for 16 days, together with the prisoners in all security prisons in the country. "We drank water and licked salt. Only after 7 days of fast did they bring us a cup of milk, then they stopped." He spent the period of imprisonment as any adult prisoner: study, meeting people, participating in the prisoners' internal institutions. "Most of the time our morale was high, and we didn't have cases of despair", he says.

On 27.6.87 he was released, and two months later, on 10.8.87, detained again for 18 days, in Fara'a. "I spent 17 days in the solitary cells. They tried to force me into confessing all kinds of things. But I didn't confess and was released", he says simply. "The second time was easier, because I knew them already and wasn't afraid at all."

A friend, one year older, describes how a confession was forced from him at Fara'a. "After four days of severe beatings, including extinguishing cigarettes on my arms, beatings to the soles of my feet and throwing me at the wall by two jailers, the "good interrogator" came in. "It's too bad for you, you seem to be a good guy", he said. "Why don't you write 'I didn't throw a stone, I didn't attack a bus', etc. I agreed, why not? Later they took white ink (typex) and erased all the 'didn'ts', so it came out that I confessed to throwing stones, attacking a bus..."

KUFR NA'AMA - A LIBERATED ZONE

BY RONI BEN EFRAT
DERECH HANITZOTZ 28 FEBRUARY, 1988

Kufr Na'ama, 2000 inhabitants, is one of the largest villages in the Ramallah hills. Only nature lovers and journalists find their way to these villages, which are not easy to reach. Narrow and twisted roads, high in the mountains and hills, whose inclines have been carefully cultivated due to the harsh conditions of tilling. The lack of agricultural land is also one of the reasons for the rapid proletarization of the village inhabitants.

Kufr Na'ama, on Monday, 15 February, a day declared by the Unified Command of the Uprising a general strike day, is not what it was before. One and a half kilometres from the village, we are halted by stone barricades, marvellously arranged to prevent any vehicle from passing. The front line - boulders, behind them large rocks, and about 30 meters away, hundreds of stones densely strewn along the length of the street. It was obvious that quick hands had worked during the night to prepare for the day of the strike. Later the inhabitants would tell us proudly how, on the day one of the village sons, Hassan Ma'ali, fell in a battle of stones with the army (three bullets pierced his heart), the stone roadblocks were cleared in two minutes to enable the car to bring him to hospital.

From the village, on the mountain top, a number of children observe us, watching with satisfaction as we must abandon our car, load camera equipment on our backs and climb the mountain. The little ones among them shriek "Jeish" (army), but the bigger ones calm them "Sahafeein" (journalists). When, out of breath, we reach the mountain top, they promise to keep an eye on the car.

Na'ama is one of those villages which does not command a major traffic route. Because of this, as long as the army doesn't discover them, the inhabitants may enjoy the timespan which enables them to conduct themselves as a "liberated zone". And, indeed, every few hundred meters in the village we see a Palestinian flag hanging from an electricity pole, fastened by means of a stone tied to a rope. Our attention is drawn to the flag flying symbolically from the electricity pole over the local school, and the tire burning close by with children loudly rejoicing around it.

But in Kufr Na'ama, no one deludes himself. The confrontation can come any minute. The routine reportage of the military commanders' helicopter in the area is enough.

One week exactly after the general strike, the day of our visit to the village, events compell us to return a second time. Abdallah Atta Abdallah of Kufr Na'ama, fell in a confrontation with the army in Ramallah on Saturday, 20.2. He was shot at short range by a border guard soldier in one of the city's alleys.

Several days before, while the family was working on the tombstone of his cousin, Hassan Ma'ali, Abdallah said to them: "If I fall, bury me next to him." He did not know how soon his request would be fulfilled, said his brother, barely holding back the tears glistening in his green eyes.

Abdallah was buried in a full national ceremony. The army did not dare to enter, although it surrounded the village on all sides. On Sunday, the soldiers raided homes in the village to arrest youths, but the youths were already far away, in the mountains. They only returned before dawn to take part in commemorating the 40th day memorial for Hassan Ma'ali. Now the two tombs stand side by side. One is made of stone, with a Palestinian flag engraved on it, and beside it, the fresh grave, covered with clods of earth. Thousands of inhabitants, from Na'ama and surrounding villages, stand by the two graves. Dozens of Palestinian flags wave freely, adorning the electricity poles in great numbers. Their number has grown considerably since the day of the general strike of the previous week. Speeches and slogans are heard over the fresh graves. Representatives from the neighboring villages have their say. No one forgets to mention the pressing issue of the hour - the rejection of Schultz's visit.

From the cemetary, a stormy demonstration heads for the home of the deceased. On the way, villagers from the neighboring Dir Amar invite the others to participate in the symbolic funeral of one of their own sons, Kamal Muhammad Faris, 24, who fell on the same day as Abdallah. Since the beginning of the uprising, there are no borders between villages. Everyone lends a hand in order to bring the uprising to the point of no return.

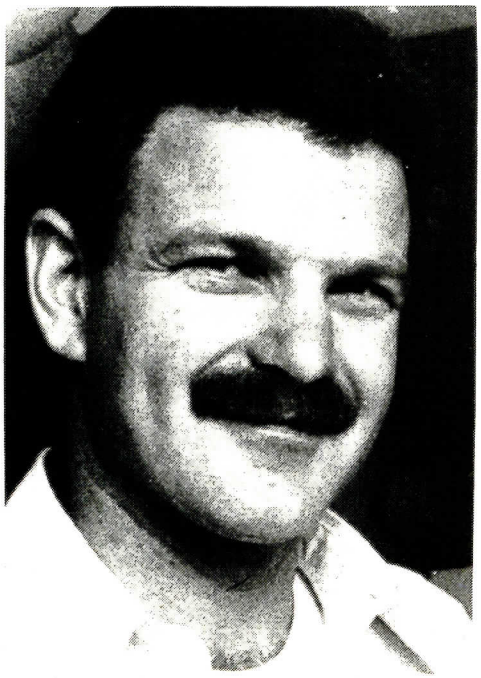
TARIQ A-SHARARA COUNTS IN THE ARAB PUBLIC

BY ASSAF ADIV
DERECH HANITZOTZ 31.1.88

1500 Palestinian readers in Israel, with annual subscriptions to "Tariq A-Sharara", a relatively new paper in the arena, plus 1500 readers without subscriptions, have made this paper a factor to be reckoned with in the Arab public.

The number of 1500 is neither coincidence nor arbitrary. Many of the readers have renewed their subscription for the third time, and have become regular readers and warm enthusiasts of the paper. "Tariq A-Sharara" has taken root in the heart of the Palestinian public inside Israel and become an integral part of its struggle for peace, equality and honorable dialogue.

Because of this, the main reason behind the threat to cancel our paper's license is the District Commissioner's (or whoever stands behind him) desire to silence the voice of "Tariq A-Sharara".



How did "A-Sharara" succeed in striking roots in Israel, without a red carpet, and with a multitude of free local papers distributed in the Arab street? Three factors led to this achievement: a political line which addressed the widest possible audience on a democratic, national and unifying basis; precise reportage; and working like mules to recruit subscribers and supporters for the paper.

The call for an end to the occupation and for the acceptance of the international peace convention as the solution for the Palestinian question and the Israeli-Arab conflict; and the demand for the establishment of an independent Palestinian state in the West Bank and Gaza Strip under the leadership of the PLO, and for granting national and civil equality to the Palestinians inside Israel, were not abstract.

This call became concrete through its extensive journalistic work, in which "A-Sharara" presented the Occupied Territories as the center of its journalistic endeavor, long before the recent uprising.

The paper's reporters were following the land deals and forged bills of sale as early as 1985, preceding the outbreak of the public scandal of that year. They reached the most remote villages, providing their readers not only with written information, but also with rare photographic reportage.

In July 1986, when the Iron Fist policy was put into effect, including administrative detentions and deportations, the paper conducted a solidarity campaign with the deportees and detainees, regardless of their political positions, while bringing the public the stories of the people behind the names.

"Tariq A-Sharara" filled a unique role in dedicating its special attention to what was happening in Gaza, which until the recent uprising had been almost totally forgotten. From the issue of the Gaza schools and the plots against the

students, through the painful story of family unification, to Gaza workers and the flourishing of their trade unions, the paper became an irreplacable source.

The focus on the occupation did not come at the cost of coverage of the problems of the Palestinian population inside Israel. 'Arian, Ein Khot and Damiada, villages condemned to destruction by the Markowitz report, were extensively examined. The paper closely followed the plot against Umm Al Fahm and the crisis faced by its municipality, was greatly concerned with the problems of Arab students, and prepared comprehensive articles on the issue of unemployment and the mistreatment of disabled Palestinians.

A CALL FOR UNITY

Beyond factual coverage, the paper's strength derived from its political approach. The struggle of Palestinians inside Israel against racist discrimination was put in the perspective of the struggle for recognition of the Palestinian people's right to self-determination in the Occupied Territories. The paper's position is, that as long as the occupation continues, and as long as the Zionist policy of denying the right of the Palestinian people to an independent state continues, the hoped-for equality will never be achieved.

Thus "Tariq A-Sharara's" critical position towards Weizman and Herzog, who portray themselves as seeking coexistence, but continue to sit in the same party as Rabin, and declare: 'No to recognition of the PLO, No to recognition of an independent Palestinian state'.

Therefore, the paper stands for the unity of all democratic and national forces, so as to raise two goals above sectarian considerations and petty cares: an end to the occupation, and Palestinian independence, for one and, on the other hand, full civil and national equality.

The fact that the "Nitzotz" organization, which backs the paper, was not satisfied with speaking about unity, but joined "HADASH" (The Democratic Front for Peace and Equality), the broadest power in the Arab street, gave this approach real validity. It would seem that precisely the realistic line of the paper and the fact that it operated within a broad framework and became popular, were the causes which aroused the authorities' wrath against it.

LABORIOUS WORK

The obtaining of 1500 subscriptions is no trivial matter, and was even somewhat unique. We did not turn to the polished party activists. "Nitzotz" activists went through villages, house to house, without knowing who would open the door, and offered the paper to every worker, housewife and student. Many who had no political background and who had never subscribed to a paper, joined our permanent readership and in this we saw a special achievement.

The goal we set ourselves at the beginning of the campaign, 500 subscriptions, proved to be very low, and we raised it to 1000. In subsequent campaigns we set the goal at 1500 while, through a natural process, some readers left the circle of subscribers and new readers joined. Thus "Tariq A-Sharara" took root in 43 Palestinian villages and cities in Israel.

Following this, a distributor was found in each village, who would bring the paper to the subscriber's home the very day it left the printers. Other readers participate by writing regularily, or by sending in poems and letters. Not a few send financial contributions, which enabled the paper's continued publication.

In early January, at the end of the third subscription drive, we announced in the paper that we aim to broaden distribution by selling 3500 single copies, which would enable us to become a weekly within six months. Within two days of this decision, District Commisioner Eli Suissa's letter arrived.

"Tariq A-Sharara" is not a monolithic paper. Its pages are open to writers of different perspectives, as long as they do not contain tones of chauvinism and racist hatred. Among our regular writers are the writers of "Derech HaNitzotz", whose articles are translated from Hebrew, a practice which has been welcomed enthusiastically by the Arab readership.

It is no accident that not one quotation from the paper was brought as a pretext for its closure. Any objective observer must admit that this was a unique attempt to build a popular newspaper with both a social and a journalistic purpose. Because of this, it currently earns expressions of such great and broad solidarity from all its readers and all currents in the Arab public. These constitute the source of its inspiration and strength, and thus it will not cease publication.

HADAS LAHAV: THE SHIN BET TRIED TO DRIVE ME CRAZY

BY LILI GALLILI, HA'ARETZ CORRESPONDANT
"HA'ARETZ" DAILY, 26.5.88

Upon her release yesterday, after 12 days of solitary confinement, she told of the emotional torture, humiliation and sexual harassment the interrogators used, "after which one does not leave the same person as they entered." Lahav stated that she is not prepared to testify against her comrades.

* * *

With third party bail of NIS 5000 paid by her father, Hadas Lahav, literary editor of "Derech HaNitzotz" was released from detention yesterday.

She learned of her release, 20 days after her detention, only five minutes in advance. The joy of her release, she said, ended when she saw that the release order stated that she would be called as a witness for the prosecution in the trial against her comrades in the organization, including her life partner, Assaf Adiv. This prevents her from receiving legal advice from her lawyers, who also represent the defendants, and she will apparently be denied visits with Adiv, against whom she is supposed to testify. Her opposition to this clause was rejected.

A few hours after her release Lahav described the process of interrogation which she said included humiliation, including sexual, and a campaign of emotional pressures "after which the person who leaves interrogation is not the same person who entered."

Lahav related yesterday: "From outside, the building looks like a normal police station, Petach Tikva police station. Inside, it is the realm of the Shin Bet. They keep stressing that it does not matter what the court will say, because the Shin Bet tells them what to do. For the first 12 days I was held in solitary confinement. This is a room measuring 4 square metres, with a hole for a toilet and walls smeared with excreta, with no running water, a window blocked by a metal plate, in total isolation. I could say "just" 12 days, as Michal Schwartz was held in these conditions for 21 days and Roni Ben Efrat for 26 days. In 12 days I lost 5 kilos. Every time I tried to do some exercise, I vomited.

"Eight interrogators took turns in interrogating me. They had no names, only codenames. After some time, you cease to be yourself, your thoughts become confused. That is their intention, to degrade, to give you the feeling that you are nothing, that they have total control over you. What didn't they tell me? They said that Assaf was unfaithful to me with another woman. Each time they changed their attitude towards me: once I was the 'good kibbutznik', next 'Hawatmeh's terrorist'. They told me I had two options: to confess, in which case they would bring the families of all terrorism victims to my trial, or not to confess, and they would release me and say that I collaborated and gave information. Right on the first day, they put a box on the table and told me to lift it. It contained about 5 kilos of files and papers, and the interrogators told me that that was the material they had about me.

"Indeed, they took out papers dating from my army service at Kerem Shalom in 1974, long before I became involved in politics. They even knew that I had had an abortion that year, and that two years ago I brought my grandfather, Dr. Moshe Yishai, a book for his 90th birthday which he didn't like, and he was angry with me.

"On the first day they brought a Palestinian prisoner before me. He was in what is called 'the torture yard'. There I saw Hani Al Issawi, whom I had met once, sitting on a chair with a sack over his head. 'Why are you here?', they asked him. 'Because of Derech HaNitzotz', he replied.

"When he was taken out, I heard sounds of shouts and blows. Only afterwards I thought that it was all a recording, for the 'atmosphere'. On another occasion, they made me stand against a wall, dressed, and started to 'grade' my body, and those of Michal and Roni. 'This one looks like a grandma, that one like a sack'. And why don't I shave my legs? Another time they surrounded me with cigarette smoke, and yet another time they brought some kind of instrument which emits high-pitched sounds, placed it near my head and told me that my ears will be blocked for a whole week. They tried to drive me crazy. When I refused to talk, they said: 'You have not spoken for a week, something must be wrong in your head, we want to send you to a psychiatric hospital for observation'.

"On another occasion, they pressed me with the question of why I don't have children. It surely means that I am mentally ill and they will bring me a psychologist. The main thing is to give you the feeling that you are totally in their hands. They worked on the connection between Arabs and sex. 'How is it to have group sex with an agent?'. They claimed that we did everything because we like to sleep with Arabs. When we said it would be better if they bang our heads against the wall, they replied: 'No, with you we'll stay clean. We'll rebuild our image.'

"The only moment when I was really frightened was when they told me that my comrades had already confessed, broke down, and even showed me forged handwriting to prove it. On Roni and Michal they put immense pressure through their children. Once they made Michal stand in a T-shirt while the interrogators blew smoke rings aimed at her nipples.

"Against me they had nothing, and my detention was intended to put pressure on Assaf. Before I was released, Michal and Roni asked me to deliver this message: "We are determined to continue our activity in a legal manner, as we did up till now, in order to expose the occupation and advance peace. The treatment we received makes the necessity to find a solution to the Israeli- Palestinian conflict even clearer, because these methods are going to be used more and more inside Israel. We have no doubt that this is a political trial".

Lahav added that she will not rest until her comrades are freed, and continue their activity for peace and an egalitarian and democratic society in Israel. Lahav will now care for Yakov and Roni Ben Efrat's children, according to their request.

THE FOLLOWING GREETINGS WERE SENT BY THE 4 DETAINED EDITORS TO THE SYMPOSIUM FOR FREEDOM OF THE PRESS, HELD ON 2-3.6.88 IN TEL AVIV

"AS LONG AS THE OCCUPATION CONTINUES, THERE WILL BE NO FREEDOM OF THE PRESS"

To the participants in the symposium for freedom of the press, journalists, lawyers, believers in democracy from Israel and abroad:

Warm greetings from the four detainees of the Nitzotz organization, behinds the walls of the detention center in Jerusalem. The fact that we are behind lock and bolt, and compelled to conduct the struggle for freedom of the press from within a jail, is the most acute witness to the state of freedom of the press in Israel.

The so-called security sources are currently conducting a massive effort, through the media, in an attempt to turn the public against us, to portray us as people who have "crossed the red lines" , and committed the crime of "hostile and terrorist activities", thus attempting to detach the closure of "Derech HaNitzotz" newspaper and the detention of its editors from the issue of freedom of the press.

The opposite is true. It is the government of Israel which has "crossed the red lines" during the past 21 years, by trampling international law and the right of the Palestinian people to self-determination, and by perpetuating the occupation. It is the government which refuses to meet at the negotiating table with the sole legitimate representative of the Palestinian people, the PLO. It is the government which rejects the international peace conference and the establishment of an independent Palestinian state in the West Bank and Gaza Strip. From day to day, the barbaric oppression of the Palestinian people, as it struggles for independence, takes on brutal dimensions, indiscriminitely striking at women, the elderly and babies. Since our detention, and up to the moment these lines are written, we have been held in three prisons. In Petach Tikva we saw journalist Hani Issawi, a sack over his head and his hands tied to an iron pipe; he is forced to pend many nights in this condition, in order to extract a confession from him. In Abu Kabir we saw Nahida Nazal, a journalist from "Al Awda", serving a six-month administration detention order. In Moscobiyya (the Russian Compound), we heard, through the door, the voice of chief editor of "A-Shaab", Salah Zuhaika, serving a six-month administrative detention order. The Russian Compound detention center is filled to overflowing. We saw a nine-year-old boy in detention, and a 12-year-old taken to the "zinok" (solitary cell). Along with us was a mother, jailed because she argued with the soldiers who arrested her 14-year-old son while he was playing football. A new branch has been built in the Russian Compound and every night we heard the screams of the tortured. We, who for years have written and exposed in detail the crimes of the occupation, and who have warned Israeli society that the barbarism will not stop at the Green Line, did not predict that we would find ourselves imprisoned, four months from the outbreak of the Intifada. In any case, when it happened, we were not surprised. The military occupation in the Territories and its methods, gradually penetrate into Israel, like a spreading cancer, and strengthen fascistic tendencies. Today, there are 33 journalists detained in prisons - 29 are from the Occupied Territories and 4, the editors of "Derech HaNitzotz".

The war against the press and the free hand to operate under the cover of darkness, under the cover of ignorance, and gain a full monopoly over information, is the war to eternalize the occupation and the kingdom of darkness which fosters it. In order to justify the closure of a paper - whose only crime was to have taken a clear position between occupier and occupied, which brought forth the naked truth, without any of the convenient mollifications synthesizing the army's and residents' versions, which concentrated on the issues of the occupation, peace and democracy - it had to be portrayed as a "Palestinian" paper. And if "Derech HaNitzotz" is, seemingly, a Palestinian paper, with real ties to the DFLP, what could be easier than to use the Emergency Regulations against it and close it arbitrarily without any legal process, and place Palestinian journalist Ribhi Al Arouri under administrative detention. And when the Nitzotz members continued to issue one-time publications, while interest in the paper and distribution were on the rise and the public was not deterred by the paper's closure, the authorities went on to take harsher measures. The attack on the paper's printing press did not deter, either, and then the detentions began, in domino fashion: Yakov Ben Efrat on 15 April, Roni Ben Efrat on 23 April, Michal Schwartz on 27 April, Hadas Lahav on 6 May (released since), and Assaf Adiv on 19 May.

And thus, we await a show trial intended to restore the lost honor of Israeli democracy, its freedom of the press, and the lost honor of the Shin Bet. A show trial based entirely on confessions made, or rather dictated to, detainees denied the right to see a lawyer, held in total isolation from the outside world, under pressures which one who has not undergone them would find difficult to describe, and under a one-sided order of secrecy. And so, when speaking of issues so-called security issues, not only freedom of the press becomes a farce, but so do civil rights.

From the moment the District Commissioner's threat to close the paper reached us, on 17 January, we began a public struggle for freedom of the press and the re-opening of "Derech HaNitzotz" through a committee composed of journalists, lawyers and seekers of democracy. Today, when we conduct this struggle from prison, we are happy and proud that the committee not only was not immobilized, but found renewed momentum, the proof of which is this very symposium. More and more people understand the

simple truth: as long as the occupation continues, there will be no freedom of the press, neither for Palestinian nor Israeli journalists. On the Palestinian side it is totally denied, while on the Israeli side it is emptied of content.

After forty days in isolation cells and prison, we are convinced more than ever of our innocence and the justice of our way. Detention and all that follows in its wake, will not distract us from our faith in the political solution based on an international conference under Security Council auspicies, with the participation of Israel and the PLO, where the decision to establish a state in the West Bank and Gaza Strip, with Jerusalem as its capital, will be made. We are convinced of the urgent need to sustain papers which will focus on this question and persuade democratic public opinion to accept this road. Our faith is stronger than ever, because this road must prevail, sooner or later, despite all means of repression enacted against Palestinians and the democratic forces in Israel.

We call upon the participants in the symposium for freedom of the press, who stand to adopt a charter for freedom of the press, to adopt the demand which will give this charter real meaning: Re-open "Derech HaNitzotz" newspaper.

We call upon the participants to demand the release of all detained Palestinian journalists, to make this struggle the vanguard and symbol of the struggle for freedom of the press.

We thank all our friends and supporters, and stand by you.

Assaf Adiv,
Roni Ben Efrat,
Yakov Ben Efrat,
Michal Schwartz.
(29 May, 1988)

(Read at the symposium by Hadas Lahav)

CHARGE SHEET

REGIONAL COURT OF JERUSALEM

THE STATE OF ISRAEL - ACCUSER AGAINST:

1. YAKOV BEN EFRAT, ID 12584843, BORN 1951, OF SHALOM YEHUDA STR. 15 JERUSALEM, NOW IN DETENTION BY ISRAELI POLICE

2. MICHAL SCHWARTZ, ID 70567, BORN 1949, OF SHALOM YEHUDA STR. 15, JERUSALEM, NOW IN DETENTION BY ISRAELI POLICE

3. ASSAF ADIV, ID 52110434, BORN 1953, OF ARIEL STR. 7, TEL AVIV, NOW IN DETENTION BY ISRAELI POLICE

4. RONI BEN EFRAT, ID 5159123, BORN 1952, OF SAN MARTIN STR. 17/14, JERUSALEM, NOW IN DETENTION BY ISRAELI POLICE

- THE DEFENDANTS

CORRECTED CHARGE SHEET

The above named defendents are accused as follows:

A. THE FACTS

1. On an unknown date in late 1983 or early 1984 the defendants were in London together with others for the purpose of making contact with the Democratic Front for the Liberation of Palestine, headed by Naif Hawatmeh (DFLP as follows).

2. While in London defendants 1, 2 and 3 met several times with Salah Rafat, a central activist in the DFLP who acts as head of the DFLP sabotage organism.

3. The DFLP is a sabotage organization and a terrorist organization as meant in the Order for Prevention of Terrorism - 1948.

4. During those meetings defendants 1,2 and 3 agreed to join the DFLP and indeed were recruited to its ranks.

5. Some time later defendant 1 suggested to defendant 4 that she join the DFLP and after expressing her agreement was recruited as well.

6. After her said joining defendant 4 also met with the above mentioned Salah Rafat.

7. The defendants each received secret underground aliases. Defendant 1 - Majed, defendant 2 - Salem, defendant 3 - Naser, defendant 4 - Natasha.

8. During the meetings mentioned in arts. 2 and 4 above it was agreed among other things that after the above mentioned joining the publishing, in Israel, of a paper financed by the DFLP will commence, and a Jewish-Arab political organization will be established.

9. A. After returning to Israel the defendants and others established an association named "HaNitzotz Publishing House", with defendant 1 as chairman of the association, and the publishing of a paper also began, financed by the DFLP, called Derech HaNitzotz.

B. Funding and regular instructions from the DFLP organization were transmitted to the defendants through two of the DFLP's people, Hani Issawi and Mohammad Labadi.

10. On unknown dates after joining the DFLP defendant 2 met several times in Europe with the above mentioned Salah Rafat as well as with Ismat Sabri who is likewise one of the heads of the DFLP.

11. On 15.4.88 DFLP propaganda material was found in the possession of defendant 1.

12. The defendants therefore made contact with a foreign agent and also joined as members a terrorist organization and acted on behalf of a forbidden association.

B. THE ORDERS OF THE LAW

1. Contact with a foreign agent - an offense according to art. 114 (a) of the criminal code - 1977.

2. Membership in a terrorist organization - an offense according to art. 3 of the Order for the Prevention of Terrorism - 1948.

3. Membership in a forbidden association - an offense according to regulation 85 (1) (a) of the Defense Regulation (Emergency Period), 1945.

4. Performing service for a forbidden association - an offense according to reg. 85 (1) (c) of the above regulations.

5. In regard to defendant 1 alone - possession of propaganda material of a forbidden association - an offense according to reg. 85 (1) (f) of the above regulations.

C. WITNESSES FOR THE PROSECUTION

1. Deputy-Commander Amnon Shaltiel, Israel Police, National Headquarters, Investigation of Crimes Branch, Petach Tikva.

2. Commander Gadi Waterman, Israel Police, Nat. Headquarters, Investigation of Crimes Branch, Petach Tikva.

3. The so-called Eran, GSS (Shin Bet)

4. The so-called Abu Sharif, GSS

5. 56045 Sergeant-Major Nahum Gofarb, Jerusalem police.

6. The so-called Abu Samir, GSS

7. The so-called Buki, GSS

8. The so-called Abu Daud, GSS

9. The so-called Assaf, GSS

10. Azriel Meirovitch, Tshernichowski 64, Jerusalem

11. The so-called Uri, GSS

12. The so-called Mike, GSS

13. The so-called Sami, GSS

14. The so-called Hagai, GSS

15. Azri Shumil Tverya Str. 147/1, Amishav, Petach Tikva

16. Nadria Jo'beh, Alwad Str. Beit Shahba, Jerusalem
17. The so-called Amir, Army PO Box 01206, IDF
18. Hadas Lahav, Ariel Str. 7, Tel Aviv
19. The so-called George, GSS
20. The so-called Dudu, GSS
21. Yosef Kapah, Ministry of Finance, Walach 6, Jerusalem
22. Faiza Samoum, Dahiyat Al Barid, near Beit Hanina
23. Wiliam Clark, Dahiyat Al Barid, near Beit Hanina (POB 20551)
24. Naamti Samim, Dahiyat Al Barid, near Beit Hanina
25. The so-called Dani, GSS
26. The so-called Ari, GSS
27. The so-called Udi, GSS
28. The so-called Shlomo, GSS
29. The so-called Yossi, GSS
30. Sarnik Michal, HaHagana Str. 4 Ramle (Amit co. Hillel Str. 1, Jerusalem)
31. Victor Zakak, 105 Str. 10, Jaffa
32. Tawfik Ismail Said Muhsein, Issawiya, Jerusalem
33. Commander Shlomo Levi, Israel Police, Investigation of Crimes Branch, Petach Tikva
34. Nader Jo'beh
35. Staff-Sergeant Ziona Handelsman (public employee card)
36. Inspector Cohen Aviram, Technology Dept., Israel Police, Nat. Headquarters, Jerusalem
37. 44748 Sergeant-Major Raphael Iouki, Israel Police, Jerusalem District, Neve Yakov Station
38. The so-called Zipporah, GSS
39. The so-called Rami, GSS
40. The so-called Natan, GSS (appraisals)

Today, 22 Sivan, 7 June, 1988 Uzi Hason, Acting Prosecutor, Jerusalem Dist. PM Jerusalem P/829/88

THE FUND FOR THE FREEDOM OF PRESS

Dear friends,

The Nitzotz trial ended on 25.1.1989 with all four editors convicted and sentenced to prison terms averaging one and a-half years (30,18,18, and 19 months). At the beginning of the case, however, the prosecution, with the Shin Bet behind it, promised that this would be »the case of the year«, and that the editors would sentenced up to 40 years in jail.
The light sentences are due in a great degree to an enormous international campaign which enabled the defendants to benefit from a skilled legal team.
Nevertheless, the costs for the trial have risen to US$ 60,000. Until now, two thirds of the costs have been covered by international solidarity. There remains a sum of US$ 10,000 which must be paid to lawyers, and other attached expenses.
The fund depends, for covering the remaining expenses, on local and international solidarity, which up to now has been impressive.
We appeal to you to help us in this honorable task. Thank you.
Cheques can be addressed to PO Box 4362, Tel Aviv 61043. Donations to »The Fund for Freedom of the Press« may also be transferred directly to account no. 262247, Bank HaPoalim, Branch no. 532, Tel Aviv.

PRESS RELEASE 8.9.88
NITZOTZ TRIAL BEGINS: HADAS LAHAV DETAINED

The trial of the four "Derech HaNitzotz" editors began today. Hadas Lahav, an editor of the paper who had been detained with the other defendants and released without charge, was detained today during court procedings after being called to testify for the prosecution and refusing to testify. Lahav is detained until the next court session, on September 14th, when she will be called to testify again. It should be mentioned that upon Lahav's release on May 25th, she announced that she would not testify against her comrades for the prosecution, and that including her in the list of witnesses for the prosecution is "a dirty trick of the Shin Bet".

The three judges did not heed the request of the defense not to apply the sanction of detention to Lahav, as she is caring for the children of Yakov and Roni Ben Efrat since their detention. On the other hand, the judges did heed the request to remove the shackles from the defendants' legs.

Besides Hadas Lahav, the prosecution called different witnesses, whose connection and scope of testimony is indirect or marginal to the case. On the other hand, two policemen who participated with the Shin Bet in the arrest of Yakov Ben Efrat, gave contradictory testimonies regarding the search and articles found on his body, and other articles found in the home of Mohammad Labadi, near where Ben Efrat was arrested. According to the prosecution, these articles carry much weight in the conviction of the "Derech HaNitzotz" members. Among other things, the policemen could not confirm that the evidence shown today in court (letters, leaflets, notes, etc.) were those confiscated during the arrest of Ben Efrat. Mohammad Labadi is a trade unionist in the West Bank and included in the next deportation list.

It was also learned that the fifth charge, against Yakov Ben Efrat alone, "Possession of propaganda material of a forbidden organization", regards 3 small leaflets, two of which were issued by the trade unions in the West Bank and the third by a youth association.

The defendants were represented by advocates Felicia Langer, Hussein Abu Hussein and Meir Morgenstern. The district court in East Jerusalem was full to overflowing with reporters, the defendants' families, "HaNitzotz" members and other peace activists. Before the court session began, a picket took place before the court house in which the children of the defendants stood holding large photos of their parents and slogans such as "Not Closure/ Not Detention/ Nitzotz Will Not Be Broken", "Arrest the Occupation, Not its Opposers", "Cancel Draconian Regulations Against Peace Activists".

PRESS RELEASE 14.9.88
SECOND COURT SESSION IN NITZOTZ TRIAL: PRECEDENTIAL DRACONIAN RULING

Hadas Lahav was summoned again today to testify, and after she refused to utter a word, the three judges decided to accept from the prosecution the confession extracted from Lahav by the Shin Bet in May, 1988, through rendering a new and precedential meaning to Israeli law. Until now, it was accepted by courts that the confession of one person against another during police interrogation would not stand up in court if the signator is not a witness in the trial, and if his refusal to be a witness is not rooted in objectionable means. Objectionable means are thought of as threats, blackmail, etc.

Lahav's reasons for not testifying in court were based upon friendship and comradeship with the defendants who have been her colleagues and partners in her political and journalistic course for many years. However, the judges decided, in a special ruling, that Lahav's behaviour in court "was not spontaneous or natural", but rather the result of "legal counseling". The judges also ruled that this counseling, which the court did not see fit to prove the existence of, constitutes "objectionable means". Herein lies the Draconian legal innovation which the "Nitzotz" judges entered in Israeli judicial procedures, and this is to arbitrarily attribute the silence of a witness for the prosecution to previous legal counseling and this only on the basis of what lawyer Felicia Langer termed during the session "the court's assumptions".

Hadas Lahav was released from detention early this afternoon by the judges. Following this, the prosecution called Shlomo Levi, superintendent of the Israeli Police Criminal In vestigation Unit to the witness stand. As mentioned previously, the Unit's building in Petach Tikva was the scene of the irregular interrogations of "Nitzotz" members. Levi presented himself as the police officer involved in the interrogation procedure, who also obtained the confessions from those interrogated. However, the defense's lengthy cross-examination hints that Levi was merely a rubber stamp for the Shin Bet's actions, a kind of kid glove before the authorities, behind which lies the iron fist of the Shin Bet.

During his cross-examination by the defense Levi repeatedly answered "I don't remember", "Seemingly" and mainly "Possibly". Despite his hearing about Lahav's complaints regarding the torture of an Arab detainee as a means of pressure to induce her to sign a confession, it was found that Levi, as a police officer, did not take any action and returned to business as usual. To the judges' surprise, Levi claimed that he did not conduct an investigation diary, as required by law.

Levi tried to create the impression that he does not know how Shin Bet interrogations are carried out in the building where he works with the rank of superintendent. As mentioned, on the day of her release from detention, on May 25th, Lahav told the press that "From the outside the building looks like a regular police station, the Petach Tikva police station. Inside, it is the Shin Bet's kingdom" (HaAretz, May 26th, 1988.)

In this building, where Levi is superintendent, all the Shin Bet's objectionable deeds against the "Nitzotz" detainees were carried out, deeds which Prof. Yehuda Bauer, the eminent Holocaust researcher, termed in the press "torture".

PRESS RELEASE 15.9.88
THIRD SESSION IN NITZOTZ TRIAL: EZRA SHUMIL, COURIER IN SHIN BET KINGDOM

The main part of the court session today concentrated on the testimony of Ezra Shumil, a criminal detainee held at the Shin Bet detention and interrogation center in Petach Tikva, who aided the Shin Bet in obtaining the confessions from the Nitzotz defendants, who deny their validity. Shumil coaxed the Nitzotz detainees into writing to each other and offered himself as courier. However, the letters he took to the detainees' cells were not written by the detainees, but rather by the Shin Bet officer so-called "Abu Sharif".

During the court session before Judge Ben- Zimra in June, after which he ruled to release the detainees on bail, state prosecutor Uzi Hason denied that the Shin Bet interrogators had used their fists to obtain confessions from the Nitzotz members. However, he admitted the use of "means of trickery", when he stated that at least some of the letters had been written by Shin Bet people. It seems that the state prosecutor claims that there were other notes not forged by the Shin Bet which contain certain evidence regarding the deeds attributed to the defendants by the prosecution.

Which letters were forged and which were not, and what was the content of the letters - these questions were not discussed in court today. State prosecution's aim in bringing Ezra Shumil to testify was to present the entire course of exchanging letters as resulting from the initiative of the defendants and Shumil, not of the Shin Bet. By this prosecution also hopes to deflect attention from the means of forgery in obtaining the confessions - which raises doubts regarding the entire interrogation procedure, as well as building up "evidence" grounded on extremely shaky bases.

From the cross-examination it was learned that Ezra Shumil has been in detention in the Shin Bet building in Petach Tikva for 11 months, despite the fact that his crimes are criminal, not security crimes.

Moreover, Shumil's room is in the same wing where the Nitzotz detainees alone were held. From defense's questions it was understood that the Nitzotz detainees claim that Shumil enjoyed extraordinary privileges such as the possibility to frequently sleep with women inside his cell. This is not the first time Shumil has been detained for crimes and he admitted the existence of 5 or 6 cases in his past. Among these cases are theft, possession of drugs and a crime very interesting in regard to the issue of the letters: forging checks.

Shumil admitted that after he was caught for his last crime he decided to "finish with the world of crime" and so became state witness 8 months ago. Thus he explained his ability to move freely in the Petach Tikva building and especially in the wing where the Nitzotz detainees were held. He also admitted that the visits of his ex-wife and present girlfriend take place in the cell. Shumil tried to claim that he was naturally interested in the welfare of the Nitzotz detainees and that at a certain point Yakov Ben Efrat asked him to give Michal Schwartz a button from his clothing.

How was the cooperation between him and the Shin Bet born, according to Shumil? In his written testimony several months ago Shumil claimed that he understood from newspapers that the Nitzotz people were traitors and so he initiated coercing them to write to each other, and gave the letters to the Shin Bet. Yet, today in court he claimed that at the moment Yakov asked him to bring the button to Schwartz he was afraid of being caught with the button and so preferred to approach the so-called "Abu Sharif" (whose office is on the upper floor). Shumil also admitted that he knew 5 of the Shin Bet interrogators involved in the Nitzotz case before the beginning of his collaboration with them as a false courier in a kingdom of darkness.

PRESS RELEASE 22.9.88
FOURTH COURT SESSION IN NITZOTZ TRIAL ADV. LANGER: ALL FORBIDDEN METHODS WERE UTILISED BY THE SHIN BET IN NITZOTZ DEFENDANTS' INTERROGATION

"The said confessions were not given out of free will and were extracted from the defendants under objectionable pressure. This means heavy and unfair psychological pressures; an exhausting and totally unfair interrogation method, during the night; use of an Arab detainee and his torture in order to break the defendants..." - so commenced Adv. Felicia Langer the prelude to her claims against the acceptability of the confessions of Michal Schwartz and Roni Ben Efrat, when state prosecutor, Uzi Hason, attempted to submit them in court today.

The sole witness to appear today in the Nitzotz trial was superintendent Gadi Waterman, the highest-ranking police officer in the Nitzotz investigation. Defense did not have the opportunity to cross examine superintendent Waterman due to the length of his questioning by the prosecutor, during which many articles were submitted to the judges, which in regard to the prosecution are evidence, and finally Michal Schwartz and Roni Ben Efrat's confessions were submitted. The acceptability of these confessions, which were retracted at the time by Schwartz and Ben Efrat immediately after being given, will be clarified by the "little trial" which will take place evidently in December or January. Prior to that, the questioning of superintendent Waterman and head of the investigation team, A. Shaltiel,

will continue. One point uncovered in regard to Waterman's investigation is the fact that the Unit for Investigation of Crimes' policemen played a role of covering up the Shin Bet's objectionable deeds, and also deceived those interrogated regarding their rights, through giving them false "legal advice".

Adv. Langer read at length her series of claims regarding what she termed "the steamroller of pressures against Michal Schwartz", used by the Shin Bet in obtaining the controversial confessions. Hair-raising reports about pressures leaked to the press even while the Nitzotz defendants were in the process of interrogation. However, today it was possible to receive many new details, as well as notice a kind of "blitzkreig" system, by which the steamroller of pressures against interrogated persons is used by the Shin Bet at full power from the first minute of detention. Adv. Langer claimed that the aim was to turn the interrogated person into "putty in the hands of the sculptor".

Michal Schwartz, Langer claimed, was held from the first moment in total isolation, in a filthy, ant-ridden cell, in which a neon light shone 24 hours a day, without water, without a toilet, without the possibility to wash and/or change clothing during the first three days, while being forced to eat foods mixed together in one plate, on the floor "like a dog". Schwartz was interrogated day and night, mainly at night, and when she was not interrogated at night, she was denied sleep. Thus Schwartz rapidly lost weight and her entire appearance changed so as to shock her brother, Amos Arieli, who managed to see her just one week after Schwartz was detained and placed in the mysterious Shin Bet building in Petach Tikva. It also appears, according to Langer, that the Shin Bet interrogators involved, about half a dozen, used Schwartz's new appearence against her, in order to threaten, frighten, pressure, blackmail and humiliate her.

However, all this was just a "softening" process, on the basis of which a monstrous steamroller was used, which shocked the audience in court today. According to Langer, the first interrogator to question Schwartz demanded on the very first day that Michal "confess", through raising personal tragedies which Schwartz suffered many years ago, such as the suicide of her husband and the death of the man who was to marry her before that, during her army service. Schwartz was insulted, cursed and humiliated ceaselessly. "Arab's whore, go to Russia", "You look like an old prostitute" (interrogator "Mike"). Sexual humiliation such as blowing smoke-rings at her breasts and threats of sexual attack were used by interrogator "Abu Sharif".

Along with this, on the very first day use was made of the torture of detainee Hani Issawi, through telling Michal that "You know that you're a Jew and we won't torture you but you know that because of you we're torturing him - you're a hero at their expense".
Against this background, it was found during the trial, that the case of the notes developed. Langer claimed that Schwartz was in a state of near loss of judgement when, at nights, forged notes were brought to her written by the interrogator "Abu Sharif", seemingly in Yakov Ben Efrat, Michal's lover's handwriting, which planted detainee Ezra Shumil would urge her to read and swallow immediately. Regarding Shumil, Langer claimed that he also told Michal at a certain point that Yakov Ben Efrat was about to commit suicide. Shumil told Roni Ben Efrat and Yakov that Michal was pregnant.

A very surprising point raised by Langer's claims was the strange coordination between the Shin Bet and the judges who extended Schwartz's detention for periods termed by Langer "generous", time after time. The Shin Bet interrogators tried from the start to create the impression in Schwartz's mind that they are all-powerful, that the illegal pressures, threats, etc. are used according to law, that they rely on the Landau commission recomendations, and that they can hold Schwartz in these conditions without her seeing a lawyer or any other person, without time limit and as long as they wish. According to Langer, Schwartz told her that when she was brought before a judge for the first extensions of her detention, during which Langer was not allowed to see her, and the judges did indeed extend her detention for lengthy periods, despite her severe complaints, Schwartz indeed became convinced that the Shin Bet is all-powerful.

PRESS RELEASE 6.10.88
THE SHIN BET FEEDS THE PROSECUTION FALSE CLAIMS

The "Derech HaNitzotz" legal defense team requested yesterday a re-examination for release on bail of the four, in light of the amendment to the criminal code recently adopted by the Knesset. State prosecutor Uzi Hason claimed in court that he possesses new intelligence material which shows the existence of a "prepared basis" which will enable the detainees to return to their illegal activity if released. All this in order to prevent the release on bail of the four by any means.
The defendants' lawyer, Felicia Langer, replied to the prosecution's claims, as appeared in the Israeli press today, by stating that these are false claims aimed at preventing the release of the four on bail. "If prosecution had anything real, why did it not present it to the judge? Is the material so secret that even a judge is forbidden to see it?"

It should be mentioned that indeed, yesterday in court during the testimony of superintendent Gadi Waterman, a series of severe omissions and questionable acts by the police and the Shin Bet, including the concealment of vital information from the Supreme Court was uncovered. However, spreading the new accusations by the prosecution diverted public attention from these severe deeds.

This is an abhorrent method from the school of MacCarthy, whose main victim is Israeli democracy. This method has been used during the Nitzotz trial time and again. The word "terrorism" is blown in the air as a smokescreen for the harassment of peace lovers and opposers of the occupation.

As may be recalled, the District Court, by Judge Ben Zimra, decided to release three of the four defendants on bail yet Supreme Court Judge Aharon Barak ruled to leave them in detention until the end of the legal procedure, due to the severity of the crime, grounds which have been cancelled by the above mentioned-amendment. Lacking relevant claims and in distress, prosecution needed a fabricated and baseless claim.
The headlines which appeared in the Israeli press today, by which the Nitzotz members not detained are involved in illegal activity, are based upon false information. The Nitzotz members' activity is perfectly legitimate, as it was in the past.
HaNitzotz/Sharara Publishing House
6.10.88

PRESS RELEASE 12.10.88/ref: request for release on bail
DISTRICT COURT JUDGE Z. TAL RULES TO RELEASE THE 4 HANITZOTZ EDITORS ON BAIL UNTIL THE END OF THE TRIAL

District Court Judge Zvi Tal ruled today to release the 4 HaNitzotz/Sharara editors on bail until the end of their trial. As expected, the District Prosecutor, Mr. Uzi Hason, immediately announced in court, that he will appeal to the Supreme Court against the ruling, and carried this out afterwards. Therefore, the 4 will remain in jail until the Supreme Court hands down its ruling. The Supreme Court must hear the appeal within the next 48 hours.

Contrary to a past ruling, by District Court Judge Ben Zimra, subsequently reversed by the Supreme Court, Judge Z. Tal's ruling does not differentiate between Yakov Ben Efrat and the other 3 defendants.

Tal's ruling is based mainly on the new Knesset amendment to the criminal law that states: "The severity of the crime in itself will not be grounds for detention... (except for) offenses of drugs, violence, cruelty, use of weapons or fire, etc."

Regarding the question of endangering public security, the judge stated that: "Membership in a terrorist organization, by its very definition, is for the aim of endangering public security", but the judge limited this abstract sentence by means of another abstract sentence, stating that "nominal membership, for example, without the possibility of any activity in that body or on behalf of it, even if it is punishable, does not necessarily endanger public security". Concretely, the judge applied this last statement to the 4 "as long as the defendants have not been convicted". Tal's decision also recognizes that: "the activity attributed to the applicants is activity of publicizing written material funded by a subversive organization and for it and performing a service for the organization". Judge Tal added some harsh conditions for the release, such as house-arrest, during which the defendants may not leave their homes 24 hours a day, US$ 30,000 bail for each of the 4, reporting three times a week to the local police station, a total ban on giving interviews or involvement in any kind of journalistic activity, etc.

It should be noted that Z. Tal heads the panel of three judges, besides Judges Dorner and Brenner, before whom the Nitzotz trial is taking place. (The request to release the 4 on bail took place seperately, before Judge Tal alone). Tomorrow, Thursday, or the next day, the supreme court will apparently hear prosecutor Hason's appeal.

PRESS RELEASE 14.10.88/ ref: request for release on bail.
SUPREME COURT REJECTS RELEASE OF THE 4 EDITORS SECOND PRECEDENTIAL AND DRACONIAN RULING DURING HANITZOTZ TRIAL

"This ruling is contradictory to the spirit and letter of the new Knesset amendment, according to which the instances of remanding people before conviction have to be exceptional" - thus reacted Adv. Felicia Langer to the decision of the Supreme Court today to accept the objection of District Prosecutor Hason to the ruling of District Judge Z. Tal, to release the 4 editors on bail.

"It is obvious that from now on, there are two categories of detainees", added Langer, "Those to whom the norms of liberty and justice are applicable, and those who are held as a sort of outcast".

This is the second time the Israeli Supreme Court rejects District Court rulings to release the 4 HaNitzotz defendants on bail. The first time Supreme Court Judge Barak leaned on weighty political and subjective phraseology, accusing the Nitzotz defendants, before trial, of "crossing the lines of national existence", and "lending their hand to uprooting the State's body and soul", and by this creating a curious category of severity of the crime.

This time, the new request by the Nitzotz lawyers was a natural result of the new parliamentary amendment to the criminal law excluding "the severity of the offense" as grounds for detention until the end of legal process. But this time Supreme Court Judge Shlomo Levine leaned on the "substance of the offense" which, according to the new amendment may "constitute grounds for the fear that the defendant will endanger public or state security".

In an obvious side-stepping of the new amendment, Judge Levine writes in his ruling: "Those against whom real evidence exists of the committing of offences of contact with an enemy agent, membership in a terrorist organization, membership in a forbidden association and performing service for it, in the circumstances of the present charge sheet, could have been detained before the passing of the amending law solely due to the severity of the crime, and accordingly may be detained after the passing of the amending law due to the substance of the offenses and the potential dangers inherent in the release on bail of those charged as stated.".

There is no doubt that this new contraversial ruling by Judge Levine will provoke widespread protests from concerned people in Israel and around the world, among them journalists' associations and members of the legal profession. It should be noted that this is the first time that the new amendment is put to the test. It should also be mentioned that a precedential draconian ruling has already been handed down by the Nitzotz judges in regard to the testimony of Hadas Lahav, and all this occurs while, since the beginning of the trial, scandalous abuse of the legal procedings by Shin Bet interrogators has been revealed.

"This new ruling, which is precedential, is also symptomatic of the very negative influence of the occupation and militarism on Israeli justice", commented Adv. Felicia Langer today.

PRESS RELEASE 14.12.88
SIXTH SESSION IN NITZOTZ TRIAL NITZOTZ TRIAL RESUMES

The trial of the 4 Derech HaNitzotz editors resumed today, 14.12.88, in the presence of an observer for the International Organization of Journalists, Mr. Konstantin Ivanov, who came especially from Prague.

Superintendent Gad Waterman, who was the head of the investigation team, returned to the witness stand and was cross-examined by lawyers Felicia Langer and Hussein Abu Hussein, as part of the "little trial" which is being conducted to determine the acceptability of the confessions obtained from the defendants. This session did not conclude the cross-examination and Superintendent Waterman will return to the witness stand at the next court session on December 21st.

From Waterman's cross-examination it arises that, as in the case of Michal Schwartz, who recanted her confession while still under interrogation, so did Roni Ben Efrat and Assaf Adiv deny their confessions, both orally and in writing. Also as in Schwartz' case, this fact was concealed by Waterman from the judges who dealt with their detentions.

In regard to the way in which the confessions were obtained, Waterman claimed that he was not interested at all in the detainees' complaints about their interrogation, did not know about the conditions of their detention or the means of interrogation and affirmed that the defendants had been interrogated at night for long periods. Regarding the question of why there exists no exact registration of the interrogation times and their duration, Waterman placed all responsibility with the Shin Bet.

In light of the many questions which arose from Waterman's cross-examination regarding the means of obtaining the confessions, the defense attorneys stated again that prosecution has no external evidence to substantiate the charges, except a note in Arabic which was, according to the prosecution, confiscated in the home of Mohammad Labadi and supposedly ties the Nitzotz members to the DFLP.

Advocate Hussein Abu Hussein, who cross-examined Superintendent Waterman about the note, claimed that a considerable part of the "secret" information the note included was in fact known to anyone who read "Derech HaNitzotz" newspaper. Other "secret" parts had no confirmation from any other source, including the material confiscated from the Nitzotz offices during the search by police.

One of the claims, as if the Nitzotz members conducted a "double bookkeeping" system, was found to be based on a statement to police by a secretary who had worked in the Nitzotz office, and claimed that she had received a salary not recorded in the finance books. Superintendent Waterman, who had obtained the young woman's statement, affirmed that the period she had worked in the office was not that mentioned in the note, but that it showed a "system". He did not present any other evidence of the "system".
Another issue which Superintendent Waterman was asked to clarify was the fact that the so-called DFLP "contacts" in the Occupied Territories, Hani Issawi and Mohammad Labadi, who were interrogated in connection with the Nitzotz case and the above-mentioned note, denied all charges and connection and were not brought to trial.

PRESS RELEASE 21.12.88
SEVENTH SESSION IN NITZOTZ TRIAL
WHY WAS RONNIE BEN EFRAT ARRESTED?

Why was Roni Ben Efrat arrested at Ben Gurion (Lod) airport on 23.4.88, on her way to an Anti-Fascist conference in Italy? This question was put to Superintendent Gad Waterman during the continuation of his cross-examination today by Adv. Meir Morgenstern. At the last court session, Superin. Waterman claimed that the reason for the arrest at the airport was an attempt to catch Ben Efrat "red-handed" smuggling "secret messages" (notes folded in sealed nylon covering for insertion into intimate body organs or swallowing). Today it was found that no body search of the type meant to discover such "messages" was ever carried out on Ben Efrat. Moreover, later in the cross-examination, Superin. Waterman admitted that he did not even confirm that such a search was carried out, and did not take any other steps to find hidden "messages" by X-rays, examining feces, etc. The lawyers accused Waterman of misleading the court when he claimed that he expected to find "messages" on Roni Ben Efrat's body, and that in fact he never believed any kind of message would be found. As may be remembered, immediately after her detention, Roni Ben Efrat claimed that she was being held "as a hostage" by the Shin-Bet in order to put pressure on her detained ex-husband, Yakov Ben Efrat.

Another issue Waterman was questioned about today was the search carried out on 3.5.88 of the office, home and car of Adv. Abed Assali. Waterman, who had ordered the search, claimed that this had no connection to the fact that Adv. Assali was a lawyer for HaNitzotz. Along with this, he could not explain why the only article confiscated from Adv. Assali's office was his file on the Nitzotz detainees. In addition, Adv. Felicia Langer's insistance revealed that the fact that Adv. Assali represented the detainees was never mentioned by Waterman before the judge who signed this extraordinary search warrant.

District Prosecutor Uzi Hason surprisingly announced today that he will summon Hani Issawi, a journalist from East Jerusalem, who had been tortured before the Nitzotz detainees in order to extract a confession from them during the Shin Bet interrogation, as a witness for the prosecution. Issawi's torture was mentioned in the complaints of several of the Nitzotz detainees, and the case was brought to the knowledge of the Defense Minister, Itzhak Rabin, in a complaint by Adv. Hussein Abu Hussein.

When Gad Waterman's questioning had finished, prosecution called on Deputy Commander Amnon Shaltiel, second-in-command of the Special Investigation Unit in Petach Tikva.

Today's session was observed by Konstantin Ivanov, a representative of the Prague-based International Organization of Journalists.

PRESS RELEASE 28.12.88
EIGHTH COURT SESSION IN NITZOTZ TRIAL SCHWARTZ' CONFESSION WAS EXTRACTED THROUGH FRAUD AND DECEIPT

Many details were revealed today, regarding the ways in which the Nitzotz defendants were interrogated, during the continuation of the "little trial" in Deputy-Commander Amnon Shaltiel's cross-examination. Shaltiel, deputy commander of the Criminal Investigation Unit of the police, was the highest-ranking police officer who worked alongside the Shin Bet in the Nitzotz case.

When questioned about the division of labor between the police investigators and the Shin Bet, Shaltiel confirmed that most of the interrogation ("questioning") of the detainees was done by the Shin Bet, while the police dealt with investigating external evidence. However, while the police have clear rules regarding the interrogation of suspects, among them the prohibition of night interrogations, Shaltiel claimed that he does not know if these rules apply to the Shin Bet interrogators. Indeed, from the documentation regarding the detainees' interrogations, it rises that most of the interrogations, including the obtaining of the confessions, took place at night.

Advocate Felicia Langer asked the witness if he knew about the ways in which the defendants had been interrogated and the times of interrogation. Deputy-Commander Shaltiel replied that the police only recorded the confessions at night and was not interested in the Shin Bet's work. However, it was stated that Shin Bet interrogators were present during the recordings of the confessions. Moreover, the confessions were recorded in the Shin Bet facility itself ("The air conditioning is better there," according to the witness). In Assaf Adiv's case, where the confession was obtained in the Shin Bet interrogation room in the presence of the Shin Bet officer so-called "Abu Sharif", the fact was not even mentioned in the police report, as required by law. D.C. Shaltiel did not know, either, that Roni Ben Efrat was held for 8 consecutive days in a lightless cell, or that Assaf Adiv did not sleep for 60 hours (from 17.5.88 to 20.5.88), while being interrogated constantly, and did not receive proper food. As result of this, he became ill and his stomach was upset. Despite the fact that D.C. Shaltiel claimed that he hadn't known about Adiv's illness, he found it hard to explain why he had given him a Sedistal pill, widely used to treat stomach disorders.

The witness was also asked about Hadas Lahav's complaint of May 9'th, before Judge Even-Ziv, that an Arab prisoner, Hani Issawi, was being tortured in front of her in order to force her to sign a confession. "What did you do about this?", he was asked by Adv. Hussein Abu Hussein. "Nothing", replied Shaltiel. Only four days later, when Judge Sarah Sirota, before whom Issawi was brought for extension of his detention, ordered to investigate his complaints about this, D.C. Shaltiel passed the care of this issue to the commissioner of public complaints.

Witness for the prosecution, D.C. Shaltiel, confirmed today that Michal Schwartz' confession had been obtained through means of "fraud and deceipt", as Schwartz herself claimed when explaining why her confession must be invalidated as it is unreliable. By this the witness meant the forged notes passed between the defendants during their detention in the Shin Bet facility, notes written by Shin Bet interrogators and D.C. Shaltiel in order to force the detainees to confess to the charges against them.

In regard to other methods of interrogation, it was mentioned today, for the first time, that during Yakov Ben Efrat's interrogation, his body was shaken continually for four hours by a Shin Bet interrogator called "Shuki". D.C. Shaltiel did not know about this, and only confirmed that such an interrogator did participate in the interrogation. In contrast to the previous witness, Superintendent Gad Waterman, D.C. Shaltiel was familiar with the cell in which Yakov Ben Efrat was held in the Shin Bet facility in Petach Tikva, called "the refrigerator". He described it as a "small, sealed room, without openings for air, flourescent lighting and perpetual air conditioning". Yakov Ben Efrat was held in this "room" for 40 days.

PRESS RELEASE 29.12.88
NINTH COURT SESSION IN NITZOTZ TRIAL SHIN BET ON THE WITNESS STAND

The testimonies of the Shin Bet members began to be heard today. After the defense demanded that the questioning of the Shin Bet members take place in open court, it agreed to the Judges' proposal that their questioning be carried out while they are hidden behind a curtain. And thus, for the first time in an Israeli court, Shin Bet members appeared with a canvas curtain between them and the lawyers, the defendants and the courtroom, filled with the defendants' friends and families. The unseen witnesses who testified today were the so-called "Ari", "Shlomo", "Udi" and "Dani". The four were involved in following Yakov Ben Efrat on the day of his arrest, 15.4.88. This extraordinary procedure created a certain difficulty when the witnesses were asked to identify Yakov Ben Efrat, and were forced to peek from behind the curtain so that they could see but not be seen, which caused much amusement and laughter among the audience.

Prosecution attempted to prove, through the witnesses, Yakov Ben Efrat's identity, the place of his arrest and articles he carried with him, including an ammount of money confiscated from him at his arrest. Defense announced beforehand, that it does not deny that on the day he was arrested, Yakov Ben Efrat went, as a reporter, to Dahiyat Al Barid neighborhood, near Jerusalem, to visit Mohammad Labadi, a well-known figure and trade union leader who was frequently interviewed by the Israeli press. The cross-examination of the witnesses by Advocate Meir Morgenstern showed that the "so-called's" do not remember many major details about Ben Efrat's actions, whether it had been Michal Schwartz or Hadas Lahav who drove him part of the way, and what kind of bag he had carried with him when he left his home. The witnesses had difficulty in confirming prosecution's claim that Ben Efrat went to Mohammad Labadi to receive money from him, as they could not dispell

defense' claim that the money had been with Ben Efrat before he arrived at Labadi's home. During his interrogation by the Shin Bet, Yakov Ben Efrat claimed that the money belongs to him, and denied that he had received it from Labadi.

The so-called "Dani", who testified as an expert witness on following suspects, claimed that the course chosen by Ben Efrat, from his home in West Jerusalem to the Labadi home near Beit Hanina, showed a conspiracy and was the course of a person who is "avoiding being followed". This, due to the fact that Ben Efrat started out in a private car, got out near the Damascus gate, continued in an Arab taxi to the "American Colony" hotel and continued from there in an Arab bus. Adv. Morgenstern reminded the witness that these are the days of the Intifada, and it is only natural to cross East Jerusalem using Arab transportation, and this does not constitute conspiratory behaviour at all.

The so-called "Dani" gave the police two statements, one in April and the second in May. In his first statement, given two weeks after Ben Efrat's arrest, the "conspiratory behaviour" was not mentioned at all. Only a month later was the witness summoned again, and made a statement in which he raises new claims. Answering Adv. Morgenstern's question regarding the difference between the two testimonies, the witness replied: "I have no explanation". Defense claimed that the explaination is that: "By May you felt that your case against Ben Efrat is so flimsy and worthless, that you decided to search every millimetre for something conspiratory."

PRESS RELEASE 26.1.89
TENTH SESSION IN NITZOTZ TRIAL
NITZOTZ TRIAL ENDS WITH LIGHT SENTENCES RONI BEN EFRAT RELEASED

Roni Ben Efrat, one of the four detained "Derech HaNitzotz" editors, was released from prison yesterday by the Jerusalem District Court, as result of a plea bargain between the defense and prosecution which was adopted in its entirety by the Judges. This ended the legal chapter of the Nitzotz case.

According to the terms of the agreement, the detainees were sentenced to varying periods of imprisonment, dating from the day of their arrest. Yakov Ben Efrat was sentenced to 30 months' imprisonment and 4 years suspended for a period of 3 years. Michal Schwartz and Assaf Adiv were sentenced to 18 months' imprisonment and 3 years suspended. Roni Ben Efrat was sentenced to 9 months' imprisonment and two years suspended. As stated, Ben Efrat was released the same day, having completed her sentence.

In the framework of the plea bargain, the prosecution dropped the first and most severe charge - contact with a foreign agent - from the charge sheet. However, the defendants had to plead guilty to the other charges, relating to membership in the Democratic Front for the Liberation of Palestine (DFLP), one of the organizations in the PLO.

This morning, during the morning news broadcast on the IDF-run radio station, the prosecutor in the Nitzotz case, District Attorney Uzi Hason, was asked if the light sentences the defendants were given do not mean that the prosecution "stepped down" from the original charge sheet, which included a charge carrying a sentence of 15 years' imprisonment, and if this stepping down does not express a weakness of the prosecution's evidence. Adv. Hason claimed that one of the reasons for prosecution's willingness to agree to the deal was humanitarian, and that due to the deal, the court was spared an enormous effort in a trial expected to continue for many months.

Yesterday in court, during the closing arguments, Adv. Felicia Langer, arguing for the court's adoption of the suggested plea bargain, said that during the trial, witnesses for the prosecution claimed time and again that there was no connection between the arrest of the four defendants and their journalistic work, which
was faultless, or the closure of their paper. However, the only result of the defendants' contacts with the DFLP, as claimed in the charge sheet, was the publishing of the paper.

In a special interview to "HaNitzotz Publishing House", explaining the reasons which led to accepting the bargain, Adv. Langer said today:

"The trial took place with the defendants indetention, and the court refusing to release them on bail, something intollerable in a democratic society. As result of this, natural pressure existed on the court, as well as on the defense. As the defendants were held in detention, there was the danger of a miscarriage of justice, as the trial would have continued beyond the periods of the defendants' sentences, if convicted.

"There was also the issue of the mothers of young children, which deeply disturbed the defense lawyers. According to our estimate, the trial would have continued for another year. The length of the trial was, unfortunately, dictated by the cruel and illegal interrogation by which the defendants' confessions were extracted, and which necessated the holding of a "little trial" against their acceptability. It should be mentioned that nine months after the defendants' arrest, the "little trial" was only at the beginning, meaning, that the trial was only at the beginning.

"In order not to prolong the defendants' suffering, who, in any case, did not see their activity as sinister, without any connection to the charge sheet, it was decided to end the trial by plea bargaining. Another danger which the bargain aimed to avert was conviction on the charge of contact with a foreign agent, the maximum sentence of which is 15 years' imprisonment. It was not impossible for the defendants to be convicted of this charge, as they confessed, under pressure and threats, to the factual basis of this severe charge, which is one of the trademarks of the suppression of thought and action for peace.

"To these reasons we must add the fact that the court was able to see the way in which the offenses were inflated by the prosecution. The court also heard how the police covered up the Shin Bet's doings; part of our claims regarding the illegal interrogations were brought before the court, and were even affirmed by the prosecution witnesses' testimonies, even at this early stage in the trial. In light of all this, and in order to reduce the defendants' suffering, we felt that plea bargaining was the lesser evil.

"Needless to say, no one has expressed sorrow or regret, in any way, in regard to what is attributed to them, something which at times seemed to endanger the deal, but for us is a matter of principle."

Israeli radio and TV stations widely reported the end of the Nitzotz trial yesterday. The case was reported on the front pages of today's newspapers in Israel. Many reports express surprise regarding the short sentences handed down, in contrast to the charge sheet and severe rulings of the Supreme Court Judges, A. Barak and S. Levine, in the case. During this morning's news program on IDF radio, one of the most popular programs, it was said that the Nitzotz case was one of the cases which shocked Israeli public opinion during the past year. The morning papers carried pictures of Roni Ben Efrat before her release, and
embracing her children upon leaving prison.

Moshe Negbi, lawyer and legal commentator, former legal commentator for Israeli radio, wrote in "Hadashot" daily today against the "demon-ization" of the Palestinian organizations by Israel, which endangers anyone who comes into contact with them. Among other things, he claimed that: "The decision to arrest the "Derech HaNitzotz" people could also have been aimed at arousing the dangerous conclusion that whoever has any contact with a terrorist organization is a sinister creature, who must be treated as the worst of criminals." He called upon Israeli journalists to read the writing on the wall: "'Derech HaNitzotz' was the first Hebrew-language paper to be closed permanently, while in the past, this extreme punishment was used only against Arabic newspapers. This proves, of course, that freedom of the press - as any other democratic value - cannot be divided, and that the suppression of human rights cannot be stopped at the Green Line."

The "Jerusalem Post" quotes Michal Schwartz, yesterday, after the end of the trial and on her way to continue her sentence in Neve Tirza women's prison:

"Schwartz said that 'Those who thought to exploit us to put all of the Israeli left on trial have failed. They are now isolated from the entire world, while the left has proven that it seeks only peace and is constantly moving ahead in its' political struggle.'"

Upon her release yesterday, Roni Ben Efrat said:

"Despite the fact that the sentence of our comrade Yakov Ben Efrat seems heavy to me, and I estimate that it contains not a little vengefulness, we are certainly satisfied with the way in which the trial ended.

"After our interrogators told us that ours would be the trial of the year, it ended with a sentence of less than a year for one of us, and 18 months in average for each of the defendants. These sentences speak for themselves, and certainly reflect the deep change in Israeli and international public opinion.

"We view the attack against us as directly connected to the attempt to break the Intifada by military force, and to hide this fact from Israeli and international public opinion. At the time of our arrest, it seemed to Israeli policy makers that they could silence the voices of support for the uprising inside Israel by closing our paper and then detaining us. As the Israeli administration's hope to stifle the Intifada died, so did the legitimacy of our detention become weaker and became more and more unclear to the public.

"The massive international support we received from journalists' circles, political movements and human rights movements, as well as from progressive individuals and groups inside Israel, Jews and Arabs, which accompanied us all during the trial - proved to us, each day of our imprisonment, that we are not alone in the battle; that it is not we who have "crossed the lines of national existence", but, rather, those who close down papers, arrest and deport journalists, those who destroy homes and place the leaders of the Palestinian people behind bars, instead of negotiating with them.

"With my release from prison, the public struggle is not over yet. Now we face the campaign for my comrades to have a third of their sentences deducted for good behavior, as customary for each for each and every prisoner in Israel."

BS 244/88, BS 255/88

The Alleged Crimes Did Not Cause Harm To The Public

1. The subject of this ruling are two unified requests in which the state requests to detain four defendants in criminal case 149/88 until the end of legal process against them.

2. According to the revised content of the above-mentioned criminal case the four are accused of joining in late 1983 or early 1984 the Democratic Front for the Liberation of Palestine headed by Naif Hawatmeh (DFLP, as follows) which is a sabotage organization and a terrorist organization in the meaning of the Order for Prevention of Terrorism - 1948 and this as result of meetings held by defendants 1-3 with a central activist of the DFLP who acts as head of its sabotage organism.

During these meetings it was agreed with defendants 1-3 that the latter will start to publish in Israel a paper funded by the DFLP and establish in Israel a Jewish-Arab political organization.

According to this agreement and after the four joined the DFLP they established along with others an association named "Nitzotz Publishing House" headed by defendant no. 1 and started publishing a paper named "Derech HaNitzotz" (the paper, as follows) funded by the DFLP. The DFLP maintained contact with the defendants - each of whom received a secret codename - through two of its people in Israel, Labadi and Issawi, through whom the funds and "regular instructions" - the nature of which was not detailed in the charge sheet - were transmitted, and also through defendant no. 2 who met several more times in Europe with DFLP activists.

During the second half of April, 1988, beginning 15 April, the four defendants were arrested on different dates while defendant no.1 was arrested while in possession of DFLP propaganda material. On basis of the above mentioned facts, as claimed by the charge sheet the defendants have been charged with: Contact with an enemy agent - an offense according to art. 114 80 (a) of the criminal code 1977 Membership in a terrorist organization - an offense according to art. 8 3 of the above order. Membership in an illegal organization - an offense according to order 85 (1) (a) of the defense regulations (emergency period) - 1945

Performing service for an illegal organization - an offense according to order 85 (1) (c) Possession of propaganda material of the above mentioned illegal organization - an offense according to order 86 (c) (j) in regard to defendant no. 1. 3.The state possesses evidence sufficient to convict the defendants of the above mentioned offences and the major evidence is:

a. The confessions of defendants 2 through 4 which also testify to defendent no. 1 joining, while the confession of defendant no. 4 is in her handwriting and part of the confession of defendant no. 2 is in her handwriting.

b. Utterances of Hadas Lahav, Tawfik Muhsein and Shin Bet people who surveiled defendant no.1 and arrested him coming out of the home of Labadi while in possession of money and propaganda material as mentioned above, while in the home a report by the defendant on their activity was found.

c. Tiny notes written by the detainees while under detention and texts of conversations which the defendants conducted in the detention center.

d. Evidence of transfer of money from the DFLP to the paper and association.

4.a. There is no doubt that defendants 2 through 4 repented their confessions a few days after giving them, explaining that they had been given under conditions of stress; fatigue as result of forced lack of sleep; threats, seduction and deceit imposed against them by their interrogators, Shin Bet members.

b. There is likewise no contesting that the confessions were made as result of trickery used by the Shin Bet interrogators by writing notes to the defendants and/or replies to the notes. c. In my view there is likewise no contesting that the aim of defendants 2-4 in joining the DFLP - according to the statements in their confessions - was not towards the military wing of the DFLP but to the political propaganda wing, while their aim is not the military destruction of the state and establishment of an Arab state in its place but the changing of the regime in Israel with a more democratic - egalitarian regime, in Marxist style, aspiring to peace with the Arab world. According to the defendants' confessions, their aim was to be assisted by the DFLP in order to establish a Jewish-Arab organization which would join "HADASH" and bring about the change in Israel through abandoning the "occupied" territories - in their words - and establishing a Palestinian state in them. Therefore, following the above mentioned joining, the defendants did not do any illegal activity - except transfering propaganda material as mentioned by defendant no. 1 - and they only consulted and were assisted by the DFLP, in order to advance their ideological aims as stated.

5. The state representative bases his request on the fact that the crimes are most serious and public security obliges the continuation of detention while in his verbal arguments he stresses that the state is struggling for its existence and that "such a phenomenon must be extinguished while still in its first stages and it was not said for nothing that one must strike while the iron is hot".

6. There is no doubt that the crimes which the defendants

are charged with are very serious and include an offense which one convicted of may be sentenced to 15 years imprisonment, but along with this I accept that except in crimes of murder and against state security the sentences of which are life imprisonment and only this punishment, severity of the charge is not a sufficient argument to justify detention until the end of legal process. In accordance with widespread ruling on this subject out of which both sides brought a substantial number of rulings each for his own side, I agree that such detention is justified when the following conditions exist:

a. Prosecution possesses justified or weighty evidence of committing the crime. b. In addition to this condition one or more of the following conditions exist:

1) Release of the detainee - in view of his past - may endanger the public.

2) The crime caused grave harm to the public.

3) The crime is of a kind which has become rampant or a repeated phenomenon which must be uprooted in haste, such as: prostitution, robbery, drugs, and, lately, stone throwing and endangering public roads. In these cases detention is required in order to deter the public from committing them, even before conviction.

However, even when these conditions exist there are cases when the personal conditions of the committer of the crime oblige his release.

7. Do these conditions exist in regard to the defendants before me:

A. Prosecution possesses weighty evidence against the defendants as mentioned in article 3 but there is also the possibility that:

1) Less weight will be afforded the confessions in the above conditions of art. 4a

2) Defendants 2, 3 and 4 will prove in the words of art. 114 (d) of the law that they "did not do or mean to do anything which might cause harm to state security".

B.1) It was not proved to me that there is, seemingly, fear that the release of defendants 2, 3 and 4 would endanger the public as there is no contesting that these defendants do not have criminal records or records of crimes against state security, their paper has been closed down and they may be prohibited from engaging in journalism and publication. However, in regard to defendant no. 1 I feel there exists such a concern as will be explained below.

2) The crimes attributed to the defendants did not seemingly cause harm to the public. The paper that was published was under the supervision of the censorship which did not find grounds to close it during the years of its appearence and the charge sheet likewise does not claim that the defendants committed any illegal act inside the country besides performing a service for the DFLP - meaning: the publication of a censored paper as mentioned - and possessing propaganda material by defendant no. 1. As mentioned above the charge sheet does not detail what were the DFLP's instructions which were transmitted to the defendants and it is not clear from the evidence how the defendants carried out their senders' instructions.

3) The above mentioned crimes do not plague the country and are not in the range of repeated offenses which the public must be deterred from committing.

In light of the above, in my view, the justifying conditions for detention of defendants 2, 3 and 4 as requested do not exist.
I will also add that among these defendants are two women, defendants 2 and 4, mothers of minors in need of their arms and hearts; who are held in detention in conditions of isolation said to be for their protection, and these are further reasons which support their release.

8. In regard to defendant no. 1, by possessing propaganda material of the DFLP there is, seemingly, proof of implementing the aims of the DFLP by practical illegal action in contrast with his comrades, which according to the charge sheet was not an isolated incident. This defendant is also the chairman of the association which publishes the paper and acts as leader of the group. In contrast with his comrades, this defendant did not make a confession explaining the integrity of his aims and therefore the stated in art. 7a(2) does not apply to him. My conclusion is that in light of these conditions particular to this defendant, there is fear that his release will endanger the public and that in the past he was not satisfied with publishing his paper and doing nothing more, and therefore it is justified to detain him. 9. Due to this each of defendants 2, 3 and 4 may be released on bail with the following conditions similar to the conditions of release on bail of case BS 221/87 in regard to the defendant Warshawsky, no. 1, which has similarities to this case:

A. Each defendant will place an index-linked bank bail of NIS 50,000 as well as a check to my satisfaction for this amount.

B. Each defendant is prohibited from engaging in any journalistic activity, directly or indirectly, (such as: under a different name) including editing, publication and distribution, and is forbidden to speak in public about political issues (including through the media).

C. Each defendant will appear three times a week at the police station close to their residence on days and times set by a superior officer of the regional command.

D. Each defendant's passport will be deposited with the police (if they have one), and each defendant will be prohibited from leaving the country.

10. Defendant no. 1 (in the revised charge sheet) will be detained until the end of legal process against him. Given today, 28 Sivan (13 June, 1988) in the presence of Mr. Hason and the respondents Ms. F. Langer and Mr. Feldman.

Representative of the state: I request postponement of the release for 48 hours for appeal. Representative of the respondents: I request that the respondents be released immediately in light of the ruling, since their further detention is not necessary for the examination of the appeal and discussion of it. RULING: The detention of defendants 2, 3 and 4 will be extended by 48 hours as requested. Time 09:07. 13.6.88

"They Lent Their Hand To Uprooting Booth Body And Soul Of The State

RULING

1. The respondents have been brought to trial before the regional court in Jerusalem. The charge sheet states that on an unknown date in late 1983 or early 1984 the respondents- as well as Yakov Ben Efrat who has been charged along with them- were in London together with others, for the aim of making contact with the Democratic Front for the Liberation of Palestine, headed by Naif Hawatmeh. While in ondon, Yakov Ben Efrat and respondents 1 and 2 met several times with Salah Rafat, a central activist in the DFLP, who acts as head of the sabotage mechanism of that organization. During those meetings Yakov Ben Efrat and respondents 1 and 2 agreed to join the DFLP, and did indeed join its ranks. Some time after that Ben Efrat suggested to respondant no. 3 to join the DFLP and after she expressed her agreement she joined as well, and even met Salah Rafat. Ben Efrat and the respondents received, each one, secretaliases. During the above mentioned meetings it was agreed, among other things, that after joining the DFLP, they will begin to publish a paper financed by the DFLP, and a Jewish-Arab political organization will be established. After their return to Israel, Ben Efrat, the other respondents and others established an association by the name of "Ha-Nitzotz Publishing house", with Ben Efrat as the chairman of the association. The publishing of a paper began, funded by the DFLP, called "Derech HaNitzotz". Funding and regular instructions from the DFLP were transmitted to Ben Efrat and the respondents through two of the Front's people, Hani Issawi and M'hammad Labadi. On unknown dates after her joining the DFLP, respondant no. 1 met a number of times with Salah Rafat and with Ismat Sabri, also one of the heads of the DFLP, in Europe. Propaganda material of the DFLP was found in the possession of Ben Efrat.

2. Due to the above mentioned deeds, Ben Efrat and the respondents have been charged with membership in a terrorist organization (an offense according to article 3 of the order for prevention of terrorism- 1948; of membership in an illegal organization (an offence according to regulation 85(1)(a) of the defence regulations (emergency period) 1945); of contact with an enemy agent (an offense according to article 114(a) of the criminal law, 1977) and of performing a service for an illegal organization (an offense according to regulation 85(1) of the defence regulations). Ben Efrat has been charged, in addition, with possessing propaganda material of an illegal organization (an offense according to regulation 85(1)(f) of the defense regulations). Parallel to the submitting of charge sheets, the detention of the defendants was requested, until the end of legal process against them. The first instance (Judge Ben-Zimra) granted the request in regard to Ben Efrat, but overruled the request regarding the respondents, while stating that they will be released as long as certain conditions are guaranteed. From this rose the State's appeal which lies before me.

3. The first instance mentioned that the evidence on which the state relies is mainly based on the defendents' confessions. It was also mentioned that the respondents repented their confessions, and claim that the confessions were given under conditions of pressure, fatigue, threats and seduction. There is no disputing the fact that the confessions were given as result of trickery used by the interrogators of the General Security Service. To the court's mind the respondents confessions show that their aim in joining the DFLP was not to the military wing of that organization, but to its political and propaganda wing. Their aim was not to destroy the state by military means and establish an Arab state in its place, but the changing of the regime in Israel with a more democratic-egalitarian regime, in Marxist style, aspiring to peace with the Arab world. The court mentioned that in accordance with their confessions, the aim of the respondents was to be aided by the DFLP in order to establish a Jewish-Arab political organization which would join "HADASH" and bring about the change of the state through abandoning the Territories, and establishing a Palestinian state in them. The court deduced from this that, following the respondents joining the DFLP no forbidden action was done by them - except transfering of propoganda material by Ben Efrat - and they only consulted and were aided by the DFLP in order to advance their ideological aims.

4. The first instance maintained, that detention-until-the-end of the legal process will be granted only if the prosecution has solid or decisive evidence of committing a crime, and if there is "reason for detention". In the court's view, there indeed exists decisive evidence as required, although it is possible that less weight will be attached to the confessions due to the circumstances of their obtainment, and that it is possible that the respondents will succeed in proving that they did not mean to harm state security. As for the "reason for detention", the court mentioned that the crimes the defendants are charged with are very severe. However, this argument alone is not sufficient for justifying detention until the end of legal process. For detention until the end of legal process it must be shown that the release of the defendant is dangerous to the public or that the crime caused grave damage to the public or that the crime is of the type that has become a plague in the State or a repeated occurrence that must be uprooted. In the view of the first instance these conditions existed in the case of the defendant Ben Efrat, but did not exist regarding the respondents. It was not proven that there is concern that the release of the respondents would endanger the public, as there is no dispute that the respondents have no criminal background or a background of crimes against state security. This and more: the crimes attributed to the respondents did not, seemingly, cause harm to the public, for the censor did not see fit to close down the paper during the years of its appea-

rence. Finally, the crimes attributed to the respondents are not rampant in the state and are not a repeated phenomenon which the public must be deterred from committing. The court added that respondents 1 and 3 have small children in need of their arms and hearts. The respondents are kept in conditions of isolation for their protection, and these are further reasons for their release.

5. In his arguments before me the representative of the State claimed that the first instance was mistaken in examining the decisiveness of the evidence, and by maintaining that there is the possiblity that less weight will be attached to the respondents' confessions. Most criticism is aimed against the first instance's attitude, which ignored the severity of the crime of membership in a terrorist organization, and contact with an enemy agent. In the view of the state's representative, the crime of joining terrorist organizations and activity in their framework has become rampant, and this justifies detention until the end of the legal process. In the conditions at hand, the excessive severity of the crimes justifies detention until the end of the legal process. In contrast, the respondents' representatives claimed that the respondents were released justly, as the evidence is in question - in light of the respondents' repenting them, and the conditions in which they were given - and the severity of the crime, in itself, is not enough to justify detention until the end of legal process. The severe conditions of the women detainees were also stressed.

As known, detention until the end of the legal process is based on two components: the existence of an evidential foundation and the existence of a reason for detention. In the appeal before me, there is sufficient evidential foundation for the issue of detention until the end of legal process. This foundation relies on confessions given by the respondents. It is true, the respondents repented their confessions, and claim that these were extracted from them illegally, but these claims alone are not sufficient to render the charges baseless, and are not sufficient to dispel the evidence completely. We have a case of claims requiring factual examination, done in the framework of a "little trial". At face value, there is seemingly evidence which, if found acceptable and reliable, is sufficient to base the charges. It seems, that this was also the general attitude of the first instance.

7. The major question before me is that of the reason for detention. It is accepted by all, that justified detention until the end of the legal process is where there is concern for tampering with the legal process and the defendant's inappearance for his trial if not detained. It is also accepted by all, that in absence of these concerns, defendants generally should not be detained until the end of legal process, as detention is not an alternative to imprisonment, and detention is not an alternative to punishment. In a state of law, one's freedom is denied, generally, only after one has been legally convicted, and not before trial and conviction. However, it is agreed by all that this principled attitude has its exceptions, where it is justified to detain a person until the end of legal process against him even if there is no fear of tampering with the legal process and no fear of his not appearing at his trial. In these cases the court is asked to find an equilibrium between two contrasting interests: the innocence of the defendant on one hand, and the defense of the public on the other. The limit of doubt is in regard to the suitable point of balance, meaning, in regard to the scope of exceptions and their essence. Thus, for example, it is a daily occurrence to detain until the end of the legal process those accused of crimes of drug dealing, robbery, rape, even in lack of proof or claim that there is fear of tampering with the legal process and inappearence at the trial. Likewise, those accused of crimes of corruption are frequently detained until the end of the legal process, where the public aspect of releasing the defendant must be taken into account.

8. In the case before us, we have a case of crimes of a security type. The question is, under the circumstances before us, must we act in the range of the general or the exceptional. I have no doubt that the case before us falls into the category of the exceptional, requiring detention until the end of legal process. My arguments are two: Firstly, the crimes attributed to the respondents are most serious under the circumstances. We do not have only a case of contact with an enemy agent - a serious thing in itself. We have a case of underground joining of the Democratic Front for the Liberation of Palestine, this joining - if indeed proven legally- is severe in any case. But where defendants such as those before us lend their hand to a terrorist organization, they indeed cross the lines of national existence. It is true, according to their confessions the respondents did not mean to carry out military action, but they constituted a civilian arm of a military terrorist organism, which aims to destroy the state. This behaviour, if it is proven, deviates from what is acceptable and tolerated in a democratic society. Tolerance of unconventional views is one thing; joining a terrorist organization is another. And again: even one who has committed an exceptional act is entitled to a fair trial, but where a democratic society maintains the implement of detention until the end of legal process, used against those who corrupt the body and soul of the state, it is deserving that this implement be used against those who lend their hand to uprooting both body and soul. Secondly, it is usual for the courts in Israel to detain defendants brought to trial on charges of membership in terrorist organizations. Equality before the law justifies, that in the case of the defendants before me as well, the same criteria be applied. Thus and more: as for myself, I see no principled difference between Ben Efrat, whom the judge ordered detained, and the respondents, whom the judge ordered released. The common ground between them is larger than the distinctions, and it is suitable that the principle of equality be applied in regard to them, as well. I regret the severe conditions of detention of the women respondents, and hope that the prison authorities will do everything to guarantee them fair conditions of detention. I have noted before me that the trial is supposed to begin in early September, and hope that it will be possible to continue it daily and finish it quickly.

For these reasons I decide to sustain the appeal, cancel the ruling of the first instance, and order their detention until the end of the legal process against them.

Given today, 1 Tamuz, (16 June, 1988)

"Judge Barak Didn`t Rule That The Applicants May Endanger State Or Public Security"

1. The applicants have been charged with membership in a terrorist organization, membership in an illegal organization, contact with a foreign agent and performing a service on behalf of an illegal organization - (TP 149/88)

The District Court of Jerusalem (His Honor Judge Ben Zimra) ruled at the time (BS 249, 255/88 resolution of 13 June, 1988) to detain applicant Yakov Ben Efrat until the end of his trial, but to release the remaining three applicants on bail and under restricting conditions.

The Supreme Court (His Honor Judge Barak) in BS 347/88 accepted the state's appeal against the above mentioned ruling, and on 16 June 1988 ordered the detention of the applicants until the end of their trial.

Now the applicants have appealed to this court requesting a further reviewing of the decision to detain them, by chapter 37 of the criminal code (combined version) - 1982. According to their claim, "The conditions have changed and this may change the earlier ruling of the court", as stated in the above - mentioned article 37.

What has changed - that since Judge Barak's ruling, amendment no. 9 of the criminal code from 27.7.88 has been passed. This amendment added articles 21a - 21c of the criminal code.

According to article 21a(d) - "The severity of the crime in itself will not be grounds for detention except in cases stated in small article (a) (2)". The charges at hand do not fall in the category of small article (a)(2) and thus the severity of the crime in itself is not sufficient to detain the applicants.

The applicant's attorneys, Adv, Felicia Langer, Adv. Abu Hussein and Adv. Meir Morgenstern claim that the basic part of Judge Barak's ruling was based upon the severity of the crime, and therefore there is reason - in light of the above mentioned article 9 - to re-examine the applicants' detention.

2. Representative of the State, the learned District Attorney, claims that the legislating of amendment no. 9 is not in the category of a change in conditions which justifies re-examination. However, in this matter I accept the applicants' claim. Detention until the end of legal process is naturally temporary and not final. The decision to detain is indeed judicial, but the quality of detention is somewhat administrative - preventative. Preventing tampering with the legal process, preventing escape, guaranteeing presence, prevents the continuation of offenses, etc. Therefore, the Legislator's declaration regarding the guiding considerations of the court is a new condition which affects the defendants' continued temporary detention. We have heard - although it was not presented to us - that the Supreme Court under His Honor Judge D. Levin also believed that the legislation of the amendment to the law constitutes a change in circumstances.

3. Since the offenses attributed to the applicants are not in the category of small article 21a (meaning, they are not offenses of drugs, violence or cruelty, use of weapons or fire, etc.), the court must consider in the conditions of article (a) (1) exist here, meaning, " That due to the conditions of the offense or its essence there are reasonable grounds for fear that the defendant will endanger... the welfare or security of the public or state security." (There is no claim of fear of tampering with the legal process or escape). And even if these conditions exist, there remains the consideration if "The aim of detention cannot be achieved by means of release on bail and conditions of release under which the curtailing of the defendant's freedom is less severe" (article (b) (1)).

4. The severity of the crime attributed to the applicants is great. However, as said, the Legislator's order is that the severity of the crime in such cases (except for offenses mentioned in article (a) (2)) will not constitute grounds for detention, unless there is fear of endangering state or public security and there is no way to prevent such danger by any means less than detention.

The offenses attributed to the applicants, by their nature, usually entail some endangering of state or public security. Membership in a terrorist organization, by its very definition, is for the aim of endangering state or public security. And it makes no difference if the membership was in the ideological wing or the acting one. But there still exists the need to examine each case by itself. Nominal membership, for example, without the possibility of any activity in that body or on behalf of it, even if it is punishable, does not necessarily endanger security. Detention does indeed greatly prevent the possibility of detainees' operating. Greatly but not completely, since even under detention there is no hermetic isolation and many contacts with the outside may be formed.

The question is if the aim of the detention can be achieved in a way by which the curtailment of the applicants' freedom is less severe, as stated in the law. It is clear that the Legislator attempts to find an equilibrium between the needs of the public and guaranteeing its safety and the individual's freedom as long as he has not been convicted. It seems to me, after consideration, that the aim of detention can indeed be achieved by less than actual detention. As stated, membership in a subversive organization in itself, without activity for and on behalf of it, does not necessarily entail a real danger as long as the defendant has not been convicted. The activity attributed to the applicants is activity of publicizing written material funded by a subversive organization and for it and performing a service for the organization. This activity can be prevented on the whole by restrictive conditions. It is clear that there is no way to prevent it totally, as even in conditions of house-arrest there

is no way to prevent any contact with visitors and telephone contact and contact in writing with others. However, as stated, even in conditions of detention there is no way to prevent all contact with the outside. And it seems to me that the possibility of activity is quite limited under house arrest and does entail a real danger so as to deny an individual's freedom.

5. Is the court permitted to rule on this, in light of the ruling of Honorable Judge Barak 347/88? It is clear that it is not in its authority at all to criticize the above ruling nor to contradict it. If, for example, Judge Barak had ruled that the applicants may endanger state or public security if released on bail, then it would be final for me. However, I did not find such a statement in the above-mentioned ruling. The ruling was given, as stated, before the passing of amendment no. 9 and it did state that the rule is to detain until the end of legal process, if in addition to the severity of the crime there exists a fear of tampering with the legal process or escaping from justice. It also stated that in the absence of such a fear "Defendants should not be detained, in general, until the end of legal process, as detention is not an alternative to imprisonment...In a state of law a person's freedom is denied, usually, only after he has been convicted and not before conviction and trial...along with this, it is agreed by all that to this principled attitude there are exceptions, in which it is justified to detain a person until the end of legal process against him even if there is no fear of tampering with the legal process and no fear that he will not report for trial." Honorable Judge Barak found that this case indeed falls into the category of these exceptions, "Firstly because the offenses attributed to the respondents (here the applicants) are most severe under the circumstances..." "And secondly, it is regular that courts in Israel detain defendants charged with membership in terrorist organizations. Equality before the law justifies that in regard to the defendants before us the same criteria be applied." I do not doubt in the least and do not wonder about the correctness of the above ruling prior to the passing of amendment no. 9. Would the Supreme Court today order the detention of the applicants due to the severity of the crime alone with the addition of the basis of equality before the law? This equality is indeed not mentioned in amendment no. 9 as a basis for detention. But it is such a principled basis that it must be guarded by all means as it is the spirit of the rule of law. It is in itself the rule of law. And therefore even if equality is not mentioned in the category of considerations according to amendment no. 9 - it is as if it had been mentioned. But it must be remembered that equality before the law is not formal - schematic equality but rather relevant equality. Of course all those who join a terrorist organization are equal in the eyes of the law, but not every joining is equal, neither according to motives nor according to actions and deeds. The actions of the applicants, (as seen from that attributed to them in the charge sheet) besides the actual joining of a terrorist organization, were the publishing of a paper, which passed censorship in Israel, financed by the said terrorist organization and inspired by it. The equality between them and Warshawski, mentioned in the ruling of Honorable Judge Ben Zimra, is greater than the case of others who were detained until the end of legal process as a regular occurrence. And indeed Warshawski was released on bail. This does not alleviate the severity of the offenses attributed to the applicants, but only stresses that each case must be examined on its own in the framework of equality before the law. And as dealers in dangerous drugs are regularly detained this does not excuse the court from examining each case on its own in regard to detention, and in suitable cases even drug dealers are not always detained, as in cases of other serious crimes.

Furthermore, following amendment no. 9, it seems to me that equality in cases such as this one will be achieved from now on by which defendants charged with such offenses, with all their severity, will not be detained regularly but rather according to the considerations mentioned in article 21(a) and only if state and public security cannot be guaranteed without detention.

In parentheses and as mentioned in passing I will remark that at the end of his ruling Judge Barak expressed sorrow over the harsh conditions of detention of the women applicants and expressed the hope that it will be possible to complete the trial quickly. The court made considerable efforts to speed the hearings but despite this we cannot anticipate the end of the trial for several months at least. And even if the defense is the one which mainly caused the postponement of the early hearings requested, the fact is that the trial will last much longer than hoped.

6. If I am correct regarding the above considerations, I must decide how the aim of detention, on the whole, will be achieved by less than actual detention. In this case I feel that house-arrest, in combination with the restrictions stated by Judge Ben Zimra in his ruling, will achieve this aim. It should be mentioned that Judge Ben Zimra separated Yakov Ben Efrat, whom he decided to detain, from the other applicants. But Judge Barak wrote in his ruling: "As for myself, I don't see a principled difference between Ben Efrat, whom the judge ordered detained, and the other respondents (here the applicants), whom the judge ordered released. The common ground between them is greater than the difference, and the principle of equality deserves to be applied to them." With all due respect, I also believe that there is no real difference between Yakov Ben Efrat and his comrades, and if equality among them worked to their disadvantage, it indeed should work to his advantage.

7. I therefore rule as following: The applicants may be released on bail under the following conditions:
A. They must remain in their homes and not leave the enterance to their homes unless for medical reasons or to court. In the case of leaving for medical reasons they will have to notify the District Attorney's office or the Jerusalem Police Precinct a reasonable period prior to this.
B. An index-linked bank bail for each of the applicants for a sum of NIS 50,000 will be deposited.
C. The applicants are forbidden to engage in any journalistic, propaganda or publication activity, directly or indirectly, including editing, advertising, distribution, etc., or public speaking on political or ideological issues (including through the media).
D. Each one of the applicants will report to the police station closest to his or her home three times a week, on Sundays, Tuesdays and Thursdays.

E. Their passports (if they have them), will be deposited with the District Attorney, and the applicants will be forbidden to leave the country.
Given in the presence of the applicants and thier attorneys and in the presence of the District Attorney on 12.10.88.
Judge Z. Tal.

"The Danger To State Or Public Security Is Rooted In The Very Essence Of The Alleged Offense"

RULING

1. A charge sheet has been served against the defendants, attributing to them offenses of contact with an enemy agent, membership in a terrorist organization, membership in a forbidden organization and performing a service for a forbidden organization, and in regard to defendant no. 1, also the offense of possession of propaganda material of a forbidden organization; at first the District Court responded to the State's request to detain only defendant no. 1 and ruled to free the other respondents on bail; but the State's appeal against the release decision was accepted and this court, by Judge Barak, ordered the detention of the other respondents on 16.6.88 (BSP 347/88). The respondents appealed for re-examination of the detention ruling and on 12.10.88 the District Court of Jerusalem accepted the request and ordered to release the respondents on bail under conditions of depositing bail, house arrest, a ban on continued journalistic, propaganda or publication activity, reporting to the police station and depositing their passports. The State rejects this decision.

2. The main issue raised by the respondents' before the District Court, which they have repeated before me, is that there is room to re-examine Judge Barak's ruling in BSP 347/88 in light of the changes in the criminal law (amendment no. 9), - 1988 (the amended law, as follows). Several claims have been made by both sides before me: the State claims that it has been proven in the District Court, in the framework of the respondents' trial, that a danger exists of tampering with the legal process by the respondents, and the respondents claimed that their trial is becoming extremely lengthy; the parties claimed such and such regarding the evidence presented in court, but lacking a complete picture I will not discuss this; on the other hand I did not find that there has been an unreasonable delay in the proceedings. The personal situation of respondents 2 and 4 has already been considered in the past and if there are grounds for detention under the new law, I don't see fit to re-examine this issue again; in short, it seems to me that the only issue which is under discussion before me is the question of the effect of the new law on Judge Barak's ruling in BSP 347/88 on the basis of the factual foundation included in this ruling. It was not disputed before me that the new law applies to the subject of the present appeal.

3. In his ruling in BSP 347/88 Judge Barak established that there is evidence which justifies, in regard to the charges, the detention of the respondents due to the severity of the offense and the principle of equality between different defendants on similar charges. This evidence regards meetings in London between the respondents and a member of dents did not mean to carry out military action, but they were a civilian arm of a military terrorist organism, which aims at destroying the state. This behavior, if indeed proven, is beyond anything accepted and tolerated in a democratic society...".

4. The learned judge stated in his ruling, correctly, that it is not within his authority to criticise Judge Barak's ruling or to contradict it, yet he saw himself permitted to examine the circumstances again after Judge Barak did not state that the respondents "may endanger public or state security" if released on bail and this is the test set by art. 21A (a) (c) of the amended law. The learned judge`s conclusions were as follows:

(a) The severity of the offenses attributed to the respondents is great; they usually include some danger to state security, as "membership in a terrorist organization, of its very definition, aims at endangering state or public security and it does not matter whether the membership is in the ideological or operational wing...".

(b) Along with this, the circumstances themselves must be examined and nominal membership in a subversive organization does not necessarily include a danger to security;
(c) The activity attributed to the respondents is mainly that of publicizing written material funded by a subversive organization and performing a service for the organization;

(d) This activity can be prevented by house arrest under restrictive conditions, as even in the conditions of detention it is not possible to close all channels of contact between the respondents and the world outside;

(e) When it was stated in the amended law, in art. 21A (d) that the severity of the crime in itself will not be grounds for detention except in the cases stated in art. 21A (a) (2) there are no longer grounds for detaining the respondents.

After hearing the lawyers' claims, I arrived at the conclusion that the ruling of the learned judge cannot remain; I will begin with an analysis of the amended law; in art. 21A (2) the Legislator stated types of crimes that due to them it is permissible to detain a defendant until the end of legal process solely due to the severity of the crime; there is no argument that the offenses attributed to the respondents are not in the range of the above article; therefore, it must be examined if the respondents are in the conditions mentioned in art. 21A (a) (1) of the amended law which states in relevance to our case:

"(1) the court is convinced, on the basis of the material presented to it... due to the circumstances of the crime or its essence there are reasonable grounds for the fear that the defendant will endanger... public welfare or security or state security".

This article distinguishes between "the circumstances of the crime" and "the essence of the crime", meaning, that the court is permitted to state that the essence of the offense of which a person is charged may be grounds for detention even if the offense is not included in the category of offenses mentioned in art. 21a(2); (certainly the existence of grounds for detention does not yet justify automatic detention, but the court is permitted to consider as well the circumstances of each and every case before it). I am indeed convinced that Mr. Morgenstern was correctly pleading for the respondents, in saying that art. 21A(1) looks to the future (in our case there must be a reasonable basis for the fear that the defendant will endanger state security), but this claim cannot help the respondents as in certain types of crimes there is such a fear in the very committing of the said crime. Thus, for example, there is no doubt that, seemingly, a detention order will be served against a person accused of offenses of espionage or treason even if concrete evidence expecting the defendant's continued activity in the future is not presented.

6. From here to the learned judge's ruling; I agree to the first component of his ruling (A). We are dealing with offenses which, if proven, are of great severity, whether the participation of the respondents in the DFLP activity was in its military wing or civilian wing; I do not agree with the second component of the ruling (B) as it seems to me that the type of offenses which the respondents have been accused of include the reasonable fear that release will harm state security; even if I do not agree with the third component of the ruling (C), which does not fit in with the other parts in it, as we are not dealing with technical offenses but rather joining a subversive organization and carrying out activities according to its instructions and with its funding; on the basis of the stated above, I do not agree as well with the fifth component of the ruling.

It is perfectly true that Judge Barak in BSP 47/88 did not use the expressions mentioned only in the amended law, but the factual foundation on which he based his ruling does not justify changing of result; a person against whom real evidence exists of committing the offenses of contact with a foreign agent, membership in a terrorist organization, membership in a forbidden organization and performing a service for it, under the circumstances of the present charge sheet, was permitted to be detained before the passing of the amended law solely due to the severity of the offense, and accordingly may be detained after the passing of the amended law due to the essence of the offenses and the potential dangers inherent in the release on bail of those charged accordingly. And I agree with Mr. Hason, who pleaded for the State, that in the circumstances of this case it is impossible to achieve the aim of detention through house arrest (the fourth component in the judge's ruling (D)). I have been told by the respondents lawyers that even in the present conditions of detention the respondents maintain contact with the world outside; the circumstances of this issue are not known to me but even if this matter demands a remedy, it cannot change the result I have arrived at.

The result of the above is that the amended law does not justify a change of the result in BSP 347/88; I did not find anything substantial in the respondents' other claims.

I accept the appeal and order the detention of the respondents until the end of legal process or until another ruling of the court. 14.10.88, BEH. 62188 BSP. Judge S. Levine

WHY ARE THE NITZOTZ MEMBERS DETAINED?

(The following article appeared in "HaLishka", a quarterly magazine published by the Lawyers' Guild in Israel, in August, 1988.)

by Prof. Ruth Gabizon

Judge Barak's ruling to accept the State's appeal and detain the "Nitzotz" defendants until the end of legal process sharpens one of the painful problems of the defense of human rights in Israel - the frequent use of detention until the end of legal process. The ruling is not surprising, however, its grounds endanger some of the fundamental principles of fair legal process.

There are countries, such as the USA, where the defendant has the constitutional right to be released on bail - after interrogation has been finished and the submitting of a charge sheet has been decided upon - until the court decides how to treat him. Here the law states that in certain cases detention until the end of legal process is compulsory, and in other cases affords the court authority to do so. The problem with the existence of such authority, and the frequent use made of it, is that such detention is contradictory to maintaining the innocence of a person as long as he has not been convicted, and can sometimes cause the lengthy detention of a person who will not be convicted, and if convicted - will not be sentenced to imprisonment at all. It should be remembered that release on bail does not mean that there is no intention of bringing the defendant to justice. It only means that justice will be done after it has been decided, following a fair legal procedure, what the scale of justice demands... Or, in other words, both the ruling on whether the behavior is indeed a crime and the decision on the severity of the behavior and the type of punishment deserving for it, we leave in the hands of the court which hears the case.

Therefore, we should welcome the trend, expressed by the ruling of the District Court, to carefully examine the use of detention until the end of legal process: the principle is that detention until the end of legal process is ordered only when two conditions combine: a serious crime and suitable basis of evidence, d an additional reason, which justifies etention before trial, conviction and punishment. The court states that the first condition exists (although strictly mentions that the crimes are basically "ideological"), t the second condition does not exist: there is no fear of tampering with the judicial process here, the crime is not violent or committed by people with criminal pasts, there no immediate danger to the public, and this s not a crime "rampant" in the country. Moreover, at least in regard to the detained women, there are weighty personal grounds for their release: both have small children who need them, and they are placed in conditions of isolation for their protection.

* * *

Barak, seemingly, agrees with the legal principle. If there is no fear of tampering with the judicial process, there is usually no good reason for detention until the end of legal process. However, this principle has "exceptions", in which the court must balance between the defendant's innocence and "defense of the public". The Judge does not make a normative scale for identifying exceptions. He suffices with saying that in practice this tool is used in cases of crimes such as drugs, robbery and rape, or crimes such as "corruption, where the public factor of releasing the defendant must be brought into account.".

The next stage in the reasoning is the statement that the case before us falls into the category of exceptions, for two reasons: firstly, the special severity of the crimes, expressed by the fact that Jews join a non-Jewish terrorist organization, in which there is a crossing of the lines of "national existence", a deed which deviates "from anything acceptable and tolerated in a democratic state", and is similar for better or worse to the above- mentioned corruption cases: if it is permissible to detain until the end of legal process those who "corrupt the State's body and soul", it is also permissible to detain those who "lend their hand to uprooting both body and soul".

Secondly, the courts always detain until the end of legal process for charges of membership in a terrorist organization, and equality before the law compels that this rule apply also in this case. Barak does not even examine the relevancy of personal distress to the decision to release on bail.

* * *

Equality before the law, in itself, is certainly insufficient. Equality before the law must be respected in regard to a good rule, but in regard to a rule which is not good - the good rule must be preferred, and must be applied in an equal manner in regard to everyone. If there is a custom which systematically harms defendants' rights, and there is no normative justification to see as an exception not to detain until the end of legal process, is there justification to perpetuate it in the name of the principle of equality? And according to the normative principle we have no attempt to explain why membership in a terrorist organization, without evidence of the fear of tampering with the judicial process or any other immediate danger, justifies detention until the end of legal process and before conviction. What stands on the scale when we weigh, in this case, the defense of the public and the defendant's innocence? Judge Barak has answers. Beyond this, it is not indeed clear that there are no precedents of release on bail of people charged with contacts with a terrorist organization. Only recently it was mentioned that Gila and Levitan, accused of contact with the "Jewish Underground" and responsability for not warning and the wounding of [police sapper] Hirbawi, were released on bail...

* * *

Yet, the first reason given by the Judge for the decision of detention is the most problematic: here, as well, we have no attempt to weigh the defendants' innocence as against the defense of the public in the limited meaning of the phrase. Nothing was said about the danger to the public as result of the defendants being released on bail until the end of their trial. What was said was the entering, through the back door, underneath flowery rhetoric, of the terms of the crime's severity while it was agreed upon by all defenders of human rights and even the proposers of the amendment to the law in the Knesset that it does not suffice on its own in justifying detention until the end of legal process.

Beyond the obliterating of the principle, there is fault in that a judge expresses himself in such a strong manner regarding the severity of the crime at the stage of arguments about detention until the end of process: it is difficult to believe that such an expression will not influence the public and the conception of the judges hearing this case, especially at the stage of arguments about punishment. It is also difficult to believe that the lesson between the lines itself will not be heard: it is permissible, perhaps even demanded, to curtail the rights of such people even in the absence of a real danger to the public as result of their release on bail. This presents a needless danger to the principle that justice must be done and seen.

* * *

Yet, even beyond this, and more important, Judge Barak's conception of severity arouses credulity: the court invites us to draw the most dangerous, and not at all obvious analogies. In assessing the relative severity of behavior there is no doubt that expressing opinions and joining a terrorist organization are two different things, and that the latter is far more serious. However, there is likewise no doubt that joining an organization, even if it is a terrorist organization, in order to publish a newspaper and organize politically, by a marginal ideological group with no connection to violence, are still very far from "uprooting the State's body and soul", and are still in the scope of political action, in contrast to violent deeds, which harm the bodies and lives of innocent people. We did not hear such strong remarks, regarding the "uprooting the nation's body and soul" in regard to the violent actions of the "Jewish Underground" defendants, and there were those who openly supported them and saw in their ideological grounds a mitigating factor. And in my view it is not at all abvious that open incitement to the use of violence against innocent people in the name of Jewish self-defense is less severe than the ideological joining of a Palestinian organization. In the conditions of this country, the former is, in my view, far more dangerous.

The analysis of principles raised by Barak should have brought to the rejection of the State's appeal. In any case, Barak himself does not analyse them in order to justify his conclusions. He suffices by offering strong and surprisingly hollow metaphors, which denounce the defendants and their actions and place them "beyond the fence". This is not suitable rhetoric for a court at all, certainly not before the persons' trial has taken place.

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One of the most important values Barak offers us is that one must discern well between the level of rejection things arouse in you, and their danger. The dangerous must be repressed and punished according to the degree of their danger, and not the arousing. The fact that he himself was misled, seemingly, by his decided judgement of the severity of the crime, only stresses the need to strictly observe the principle that this in itself is not sufficient for detention until the end of legal process, and for careful critical examination of the implicit assumptions which aided his evaluative ruling. It must be remembered that exactly the radical exception in the deeds before us is that which has caused that they have always been, and seemingly will always remain, marginal, The courts must be especially careful not to punish these people, even at the stage of the trial itself, for their exceptionability instead of punishing them for their deeds, for the damage they cause to the fabric of life, and the degree of real danger they pose. Barak's ruling is not helpful to this.

HARASSMENT CAMPAIGN AGAINST HANITZOTZ/SHARARA

CHRONOLOGICAL DATA

14.1.88 Jerusalem District Commissioner Eli Suissa sends letter to Assaf Adiv, publisher of HaNitzotz/Sharara, stating that "material shown to me indicates that the paper has a real linkage to the Democratic Front organization" and informing him that he is "considering cancellation of the papers' licence".

3.2.88 Letter from HaNitzotz lawyers to Suissa asking "What do you mean by 'real linkage'?"

3.2.88 Meeting between HaNitzotz and Suissa, who refuses to detail or specify accusations: "I do not decide on my own".

Ribhi al-Aruri, first Nitzotz/Sharara journalist to be jailed. First ten days without access to a lawyer, signed an affidavit after torture, later given six months administrative detention (imprisonment without trial). Subsequently adopted by Amnesty International as Prisoner of Conscience.

18.2.88 Letter from Suissa, stating that he has decided to cancel the license, under the Defence Emergency) Regulations, introduced by the British colonial government in 1945.

28.2.88 HaNitzotz/Sharara Publishing House publishes a new Hebrew weekly called "In Spite of It", legally a one-time publication.

12.3.88 Police and military raid HaNitzotz printshop without finding or taking anything.

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HaNitzotz/Sharara Publishing House publishes "Protest and Refusal in Israel" in Hebrew, and "Land and Rebellion" in Arabic.

15.4.88 Yakov Ben Efrat second journalist jailed. Prevented from seeing his lawyer for 15 days and, as with subsequently arrested journalists, remains in jail, without charges served against him in court and without accusations made public.

23.4.88 Roni Ben Efrat, third journalist arrested. Prevented from seeing her lawyer for 12 days.

27.4.88 Police raid HaNitzotz/Sharara office, confiscating some legal material (addresses and phone numbers, account books, etc.).

Michal Schwartz, editor of HaNitzotz, fourth journalist arrested. Prevented from seeing her lawyer until 5 May.

3.5.88 Police raid office, home and car of Abed al-Assali, one of the Nitzotz lawyers, confiscating his file on HaNitzotz.

5.5.88 At her first meeting with her lawyer, Michal Schwartz signs an affidavit complaining about the Shin Bet interrogators. Among other things, she claims that amidst heavy pressure she is being urged to commit suicide.

6.5.88 Hadas Lahav, cultural editor, becomes fifth HaNitzotz journalist in jail.

9.5.88 Lawyer Felicia Langer presents to the Prime Minister's office (responsible for the Shin Bet) a written complaint by the HaNitzotz lawyers, regarding illegal methods of interrogation of the detainees, in which Mr. Ben Efrat, Ms. Ben Efrat and Ms. Lahav complain, among other things, that a tortured Arab prisoner was brought before them, and that interrogators say "we will torture him until you talk". It later becomes known that the Arab prisoner is Hani al-Issawi, a journalist from East Jerusalem.

17.5.88 Front page headline in Yediot Aharonot, violating a court order banning the publication of accusations, says: "HANITZOTZ EDITORS WILL BE CHARGED WITH MEMBERSHIP IN AN ILLEGAL ORGANIZATION AND CONTACT WITH A FOREIGN AGENT".

Assaf Adiv, publisher of HaNitzotz, arrested.

19.5.88 'Shomer HaNitzotz' (HaNitzotz Guardian) publicly announced in a Jerusalem press conference by the "21st Year" movement.

23.5.88 Charges against Michal Schwartz and Roni Ben Efrat are served in court and publication permitted:
a) contact with a foreign agent;
b) membership in an illegal organization;
c) providing services for an illegal organization;
d) membership in a terrorist organization. Total prison term if convicted: 40 years.

25.5.88 Same charges served in court against Yakov Ben Efrat and Assaf Adiv.

Hadas Lahav released without charges.

26.5.88 Newspapers publish extensive declarations to the press by Ms. Lahav, accusing the Shin Bet of employing physical and psychological torture and sexual abuse.

29.5.88 Michal Schwartz and Roni Ben Efrat transferred from the Russian Compound detention center in West Jerusalem to Neve Tirza women's prison and immediately attacked and assaulted by women criminal prisoners. Attacks continue throughout the next three days.

31.5.88 Adv. Abed al-Assali visits Neve Tirza and witnesses violent attack against Mss. Schwartz and Ben Efrat as they come to meet him. Ms. Schwartz taken to hospital with blood flowing from her head. In the afternoon, Mr. al-Assali holds a press conference, accuses "some hand behind the prison authorities, organizing the riots", and demanding immediate placing of his clients in the security (i.e. political) wing of Neve Tirza.

7.6.88 Papers publish a public appeal dated 3 June by Mss. Schwartz and Ben Efrat accusing the prison authorities, with names, and demanding their removal from the isolation cells to the security section.

12.6.88 HaAretz daily publishes an article by Prof. Yehuda Bauer ("Shin Bet Interrogators - How Do You Sleep?"), accusing the security services of torturing Hadas Lahav.

13.6.88 District Court Judge Ben-Zimra decides to release three of the four HaNitzotz detainees on bail. In his written decision, he says that the main evidence against them is their own confessions, which the detainees immediately retracted, alleging illegal means of interrogation. Ben Zimra notes the open acknowledgement by the State Prosecutor the previous day that "trickery" was also used to extract confessions. Ben-Zimra adds that, even if the confessions are taken at face value, no harm to the public results from the alleged membership in the Democratic Front for the Liberation of Palestine. The State Prosecution announces that it will appeal to the Supreme Court.

16.6.88 Supreme Court Judge Barak accepts the appeal of the Prosecution. In his written decision he states that the accused have "crossed the lines of national existence".

19.6.88 Eight professors from Tel Aviv University publish a public appeal condemning Barak's ruling.

26.6.88 Assaf Adiv and Yakov Ben Efrat are transferred to Kishon Detention Center, and immediately put into isolation, without any reasons given.

29.6.88 Lawyer Netta Goldmann, of the Association for Civil Rights, visits Michal Schwartz and Roni Ben Efrat at Neve Tirza, and makes severe complaints to the press.

30.6.88 Israeli press publishes, alongside Adv. Goldmann's declaration, a public appeal by Assaf Adiv and Yakov Ben Efrat about their "inhuman conditions in prison". The press also quotes Adv. Felicia Langer saying that behind the unusual treatment of the four lies the vengeful intervention of the Shin Bet".

Palestinian political prisoners in Neve Tirza embarked yesterday on a 48-hour hunger strike demanding full seperation from criminal prisoners. Neve Tirza authorities accuse Mss Schwartz and Ben Efrat of causing the tension in the prison.

6.7.88 Attempted murder of a warden at Neve Tirza isolation wing, by two political prisoners.

8.7.88 MK Charlie Biton visits Neve Tirza. He receives an affidavit from Mss Schwartz and Ben Efrat (as yet not publicised), stating that on 7.7.88 the Director of Neve Tirza, along with high officials of the Israeli Prisons Service, summoned Schwartz and Ben Efrat and accused them, on basis of secret information, of "complicity" in the murder attempt, and told them that they would remain in the isolation wing "for years to come".

18.7.88 The four editors embark on a 5-day hunger strike. Papers publish the item, alongside a clear-cut declaration by Adv. Felicia Langer: "This is the first time that detainees before trial are subject to attempts to break them physically and morally in order to bring them to trial totally shattered".

The four issue, from their prisons, a statement detailing the harsh and discriminatory conditions of detention at Neve Tirza and Kishon ("Jalame"), terming them "political harassment", including the previous ruling of Supreme Court Judge A. Barak: ".The courts are gradually becoming the rubber stamp of governmental arbitrariness, by approving almost automatically every expulsion order, the closure of newspapers, administrative detentions and house demolitions. At the same time, murderers, instigators of hatred and racism, and preachers of the 'transfer' of Arabs out of the country receive preferential treatment from the authorities and enjoy the support of large sections of society".

22.7.88 On the last day of the hunger strike, HaAretz daily reports that three leading Arab nationalist administrative detainees, from the pre-67 borders, are holding a hunger strike today in solidarity with the Nitzotz detainees. HaAretz also reports that: "...the hunger strike of the 4 editors is causing reactions in Israel and abroad. Many telegrams from Israel and abroad, demanding to stop the harassment of the "Derech HaNitzotz" detainees were sent to Minister of Police Bar-Lev. Among the senders: the Greek Vice-Minister of Education Roula Kaklamanacki, Mikis Theodorakis, the International Organization of Journalists' Bernd Rayer, as well as over 40 Italian journalists and European journalists' unions." HaAretz also includes several Israeli academic figures, writers, etc. Among the events not reported by HaAretz: several demonstrations held in front of the Israeli Prisons Service, Neve Tirza, etc., as well as MKs of several left parties (not including the Labor party) who visited the prisons or presented parliamentary appeals.

Later it becomes known that high ranking officials of the Prisons Service met the Nitzotz women today, as well as Minister of Police H. Bar-Lev, all of them smiling and promising to review the situation of the two women detainees.

2.8.88 Mss Schwartz and Ben Efrat are taken out of isolation and placed with the common prisoners, enjoying almost the same rights. But all other political prisoners are taken out of Neve Tirza and placed in a special wing of Tel Mond prison. Yakov Ben Efrat and Assaf Adiv remain in isolation until three days before the trial opens.

8.9.88 The trial of the 4 editors opens. Hadas Lahav is detained during court procedings for contempt the court, after refusing to testify for the prosecution. Prosecutor Uzi Hason calls on different witnesses, whose connection and scope of testimony is indirect or marginal. Two policemen who participated with the Shin Bet in the arrest of Yakov Ben Efrat gave contradictory testimonies regarding the search and articles found on his body, and other articles found in the home of Mohammad Labadi, near where Ben Efrat was arrested. Labadi is a West Bank trade unionist, now awaiting deportation.

14.9.88 Second court session. Hadas Lahav is brought from jail to testify. After she refuses again, the court rules to release her, but to accept from the prosecution the confession extracted from Lahav by the Shin Bet in early May. This ruling by the court sets a Draconian precedent in Israeli justice, which until now did not accept the validity of a confession of one person incriminating another, if the signator is not a witness in the trial.

15.9.88 Third session. The main part of the court session concentrated on the testimony of Ezra Shumil, a criminal detainee held at the Shin Bet center in Petach Tikva, who aided the Shin Bet by coaxing the Nitzotz detainees into writing to each other, and offered himself as courier. Shumil passed all the notes through the Shin Bet officer so-called "Abu Sharif", before handing it to the addressee. "Abu Sharif" in his turn forged some of the notes. This Petach Tikva center, which from the outside looks like a common police station, is the site where all the illegal pressures against the Nitzotz detainees took place.

22.9.88 Third session. Superintendent Gad Waterman, chief police investigator to work alongside the Shin Bet in the Nitzotz affair, is called to testify by the prosecution. Among other things, prosecution tries to admit to court the "confession" of several of the detainees, supposedly obtained by Waterman. As this happens, Adv. Felicia Langer presents her claims against the admissibility of the confessions and new details emerge about what Langer terms "the steamroller of pressures" employed by the Shin Bet against Michal Schwartz, which will receive wide press coverage the following day.

5.10.88 Fifth session. After Prosecutor Hason finishes his questioning of Waterman, Langer begins her cross-examination. Amidst astonishment in the court, the cross-examination reveals scandalous violations of proceedings committed by Waterman, including not conducting a diary of the interrogations ("I frequently do not conduct a diary"), and the gravest of all: concealing from the Supreme Court in early May the fact that Michal Schwartz recanted her "confession" totally, in a memo written by Waterman himself, in order to obtain the extension of Schwartz' detention. The embarassed judges castigate Waterman by asking him to read his concealed memo aloud before the court.

Another issue is a slip of the tongue, by which Waterman partially confirms the sexual harassment of Michal

Schwartz by the so-called "Abu Sharif", one of the Shin Bet interrogators. Waterman also voluntarily reveals, in order to explain his theory of "the dynamics of interrogation", that he exploited his professional qualifications as a psychologist in order to phrase the forged notes which courier Shumil gave the detainees at nights.

The court session today ends earlier than usual in order to allow the second request by Nitzotz lawyers to release the detainees on bail to be heard. Nitzotz lawyers base their request on the new Knesset amendment to the criminal law, forbidding detention until the end of legal process solely on basis of "the severity of the offense".

6.10.88 Israeli papers conceal or relegate to second place the relevation of Waterman's scandalous violations. Instead, their main story about the fifth session gives prominence to one of the prosecution's arguments against the request to release the detainees on bail: "THE SHIN BET: THE NITZOTZ ACTIVISTS NOT JAILED CONTINUE TO ACT IN THE DFLP" Hadashot daily). HaNitzotz Publishing House issues a statement to all papers, but not a single one prints it the next day.

12.10.88 District Judge Z. Tal hands down his ruling on the request for bail: positive. As expected, Prosecutor Hason appeals to the Supreme Court.

14.10.88 Supreme Court Judge S. Levine rules against the release on bail, on the grounds that the new amendment does not apply to the Nitzotz detainees, and that he cannot reverse Supreme Court Judge Barak's previous ruling on any other grounds. By doing so, Levine not only sets a second Draconian precedent in Israeli law (the new amendment does not apply in "security" cases), but confirms the Barak ruling's line, which was bitterly argued by Israeli lawyers and publicly challenged by academic circles.

(For further details see included Press Releases)

AN URGENT APPEAL TO THE PUBLIC - 20.2.1989

HANITZOTZ PRISONERS PLACED IN ISOLATION IN ASHMORET JAIL, AMONG SPECIALLY GUARDED PRISONERS

YAKOV BEN EFRAT AND ASSAF ADIV: »THIS IS AN ADDITIONAL PUNISHMENT«

Even after sentencing, the vindictive policy towards HaNitzotz prisoners Yakov Ben Efrat and Assaf Adiv continues. As may be recalled, both were sentenced on Jan. 25, 1989 to prison terms of 30 and 18 months, respectively. In contrast to all other detainees, who are brought before a classification commission after their trial, which decides which prison they will be transferred to, Ben Efrat and Adiv were not brought before any commission. While in Kishon Detention Center, where they were held all during the period of their trial, they were told that »their status is decided in high places«. Indeed, on Feb. 13, 1989 they were brought, against their will, to Kfar Yonah (Ashmoret) jail, where prisoners in need of national special protection are held, and placed in the X-block along with Jewish criminal protected prisoners. (Protected prisoners are those prisoners who cannot remain among the regular prison population because their lives are in danger. Those in need of national special protection are prisoners whom no prison in the country can guarantee their safety). The conditions in the block where Ben Efrat and Adiv are held are extremely isolated. Besides two hours of walk in the prison yard, they are locked in a two-person cell, eat their meals in the cell and cannot conduct the social life customary in all other prisons. Beyond the physical and social isolation inflicted upon them, the imprisoned journalists feel that they are being baselessly categorized. Moreover, until now they have been held in a regular detention center in a cell along with criminal and security detainees. Now, after they have been tried for security offenses, Ben Efrat and Adiv demand to be transferred immediately to a regular jail where political prisoners like themselves are held.

APPEAL FOR SOLIDARITY

Yakov Ben Efrat and Assaf Adiv appeal to public opinion in Israel and abroad to act for their transfer to a regular prison, among political prisoners. Addresses for protest letters:
Minister of Police Haim Bar Lev, The Knesset, Jerusalem.
Commander Levi Shaul, Prisons Service, 5 Histadrut St, Je-